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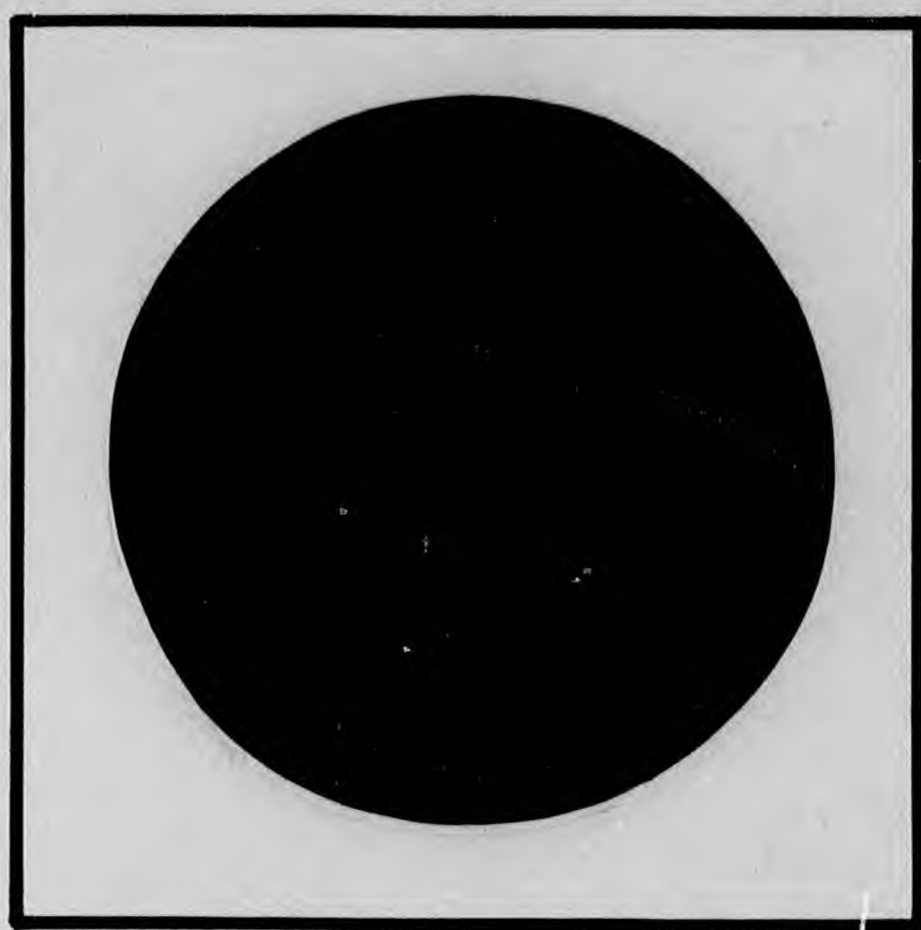
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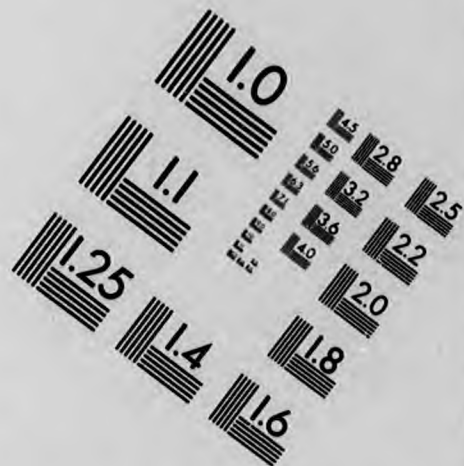
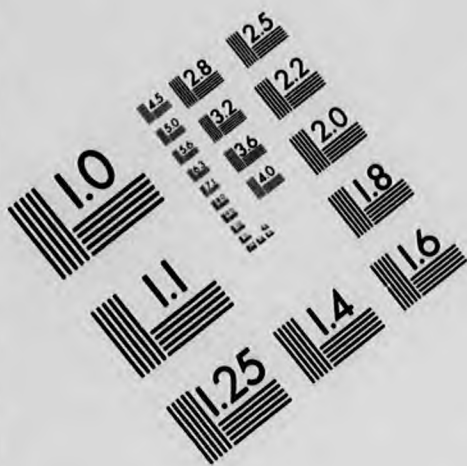
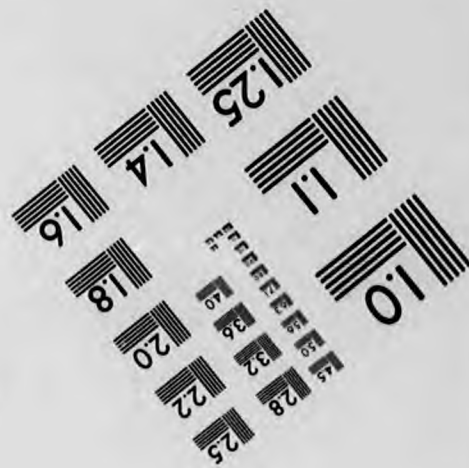
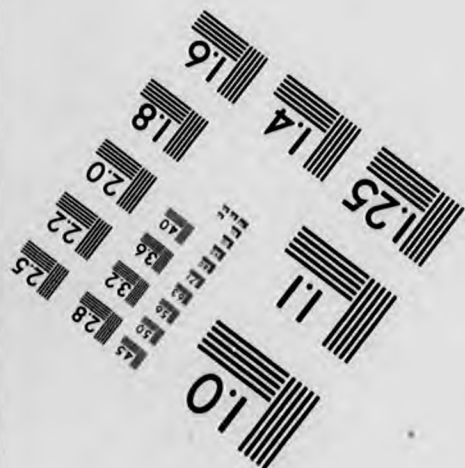
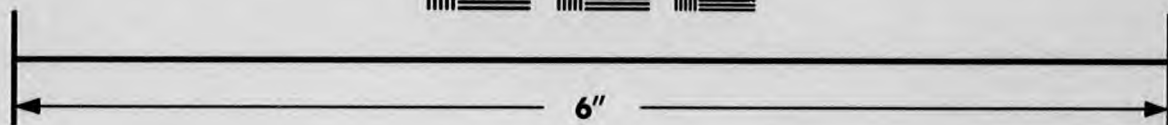
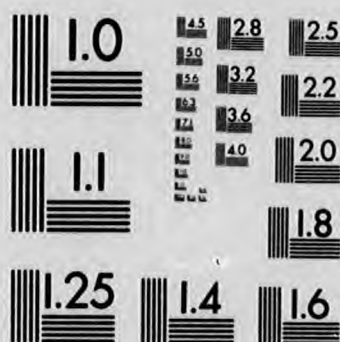
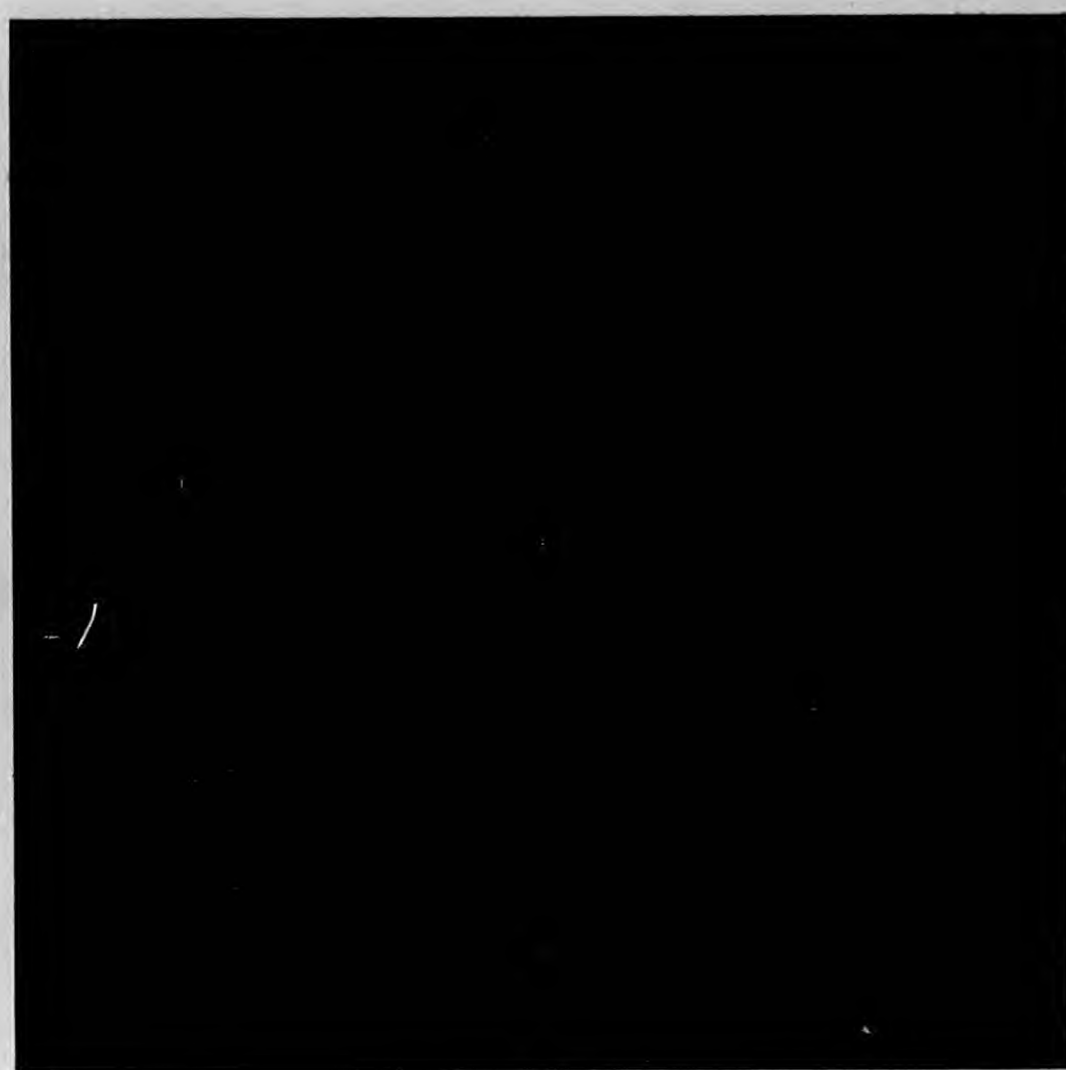


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WAR CRIMES TRIAL STATUS REPORT

GHQ, SCAP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

File Number **P-124**

Date of Report **19 August 1946**

Title of Case **U. S. A. vs. Shuji KAWANORI**

PART A

1. Names and Nationalities of Accused:

2. Nature, Place and Date of Offense:

3. Names and Nationalities of Victims:

4. Probable Place and Date of Trial:

**High Commissioner's Residence, Manila, Philippine Islands,
4 October 1946.**

PART B

5. Place and Date of Trial:

**High Commissioner's Residence, Manila,
Philippine Islands.**

WD AGO Form R-5392
21 June 1946

Arraignment - 4 October 1946.

Trial - 4 October 1946.

(Over)

6. Judgment and Sentence (Relate to Specific Accused)

Shuji KAWAMORI - 14 November 1946, Guilty, life imprisonment at hard labor.

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

9. Date and Place of Execution of Sentence:

INSTRUCTIONS:

Prepare Trial Status Reports for every case in trial status promptly after reference for trial (Part A), at the conclusion of the trial (Part B) and at the completion of final action in the case (Part C) and transmit by fastest means in triplicate at each stage of the proceedings to the Director, Civil Affairs Division, WDSS, The Pentagon, Washington 25, D. D.

WAR CRIMES TRIAL STATUS REPORT

~~GHD, SCAP, JUDGE SECTION, MANILA BRANCH~~
(Reporting Office)

File Number W-124

Date of Report 19 August 1946

Title of case U. S. A. vs. Shuji KAWAMORI

PART A

1. Names and Nationalities of Accused

Shuji KAWAMORI - Japanese

2. Nature, Place and Date of Offense

Murder, cruelty and torture of civilians at Bacolod, Siley and Bago, Occidental Negros Province, Philippine Islands in or about January and February 1943 and January, February, March and April 1944.

3. Names and Nationalities of Victims

**Roberto Felix Ramos - Filipino
Rufino Sion - Filipino
Cresencio Federez - Filipino
Emilio B. Parreno - Filipino
Vicente Torres - Filipino
Lope Iadesma - Filipino
Domingo Mananquel - Filipino
Estanislao Magbanua - Filipino
Moises Mana-ay - Filipino**

**Amrosio Belasa - Filipino
and an unknown number of unidentified Filipinos.**

4. Probable Place and Date of Trial

**High Commissioner's Residence, Manila, Philippine Islands,
October 1946.**

PART B

5. Place and Date of Trial

WD AGO Form R-5392
21 June 1946

(Over)

Inclosure 2 to WD Letter (AGAM-PM 000.5 (20 Jun 46)WDSCA)21 Ju

6. Judgment and Sentence (Relate to Specific Accused)

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

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25-89621-300

U.S. 175

HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND

Military Commission) APO 707
Orders No..... 7) 27 January 1947

Before a Military Commission which convened at the High Commissioner's Residence, Manila, Philippine Islands, on 4 November 1946, pursuant to Letter Order, General Headquarters, SCAP, AG 000.5 (3 June 46) LS, dated 3 June 1946, Subject: "Trial of Shuji KAWAMORI", with indorsement thereto, General Headquarters, AFPAC, 3 June 1946 and paragraph 12, Special Orders 243, Headquarters AFWESPAC, 22 October 1946, paragraph 2, Special Orders 254, Headquarters AFWESPAC, 30 October 1946 and paragraph 3, Special Orders 254, Headquarters AFWESPAC, 4 November 1946, was arraigned and tried:

Shuji KAWAMORI ISN 51J-90492

CHARGE: That Shuji KAWAMORI, ISN 51J-90492, formerly First Lieutenant of the Imperial Japanese Army, on the dates and at the places hereinafter specified, and while a state of war existed between the United States of America, its allies and dependencies, and Japan, did violate the laws and customs of war.

SPECIFICATION 1: (As amended) - In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Roberto Felix RAMOS, Epifanio BAJA, Antipas BALLIGUAS, and Jose GARCIA, in violation of the laws of war.

SPECIFICATION 2: Deleted.

SPECIFICATION 3: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Cresencio FEDEREZ, a Filipino civilian, in violation of the laws of war.

SPECIFICATION 4: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of February, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Emilio B. PARRENO, a Filipino civilian, in violation of the laws of war.

SPECIFICATION 5: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near Barrio Talotog, Municipality of Bago, Province of Occidental Negros, Philippines, in or about the month of March, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command to kill Vicente TORRES, a Filipino civilian, in violation of the laws of war.

SPECIFICATION 6: (As amended) In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about

the months of March and April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Lope LEDESMA, Jose VILLASOR, and Rosenda HERADURA, in violation of the laws of war.

SPECIFICATION 7: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Domingo MANANQUEL, a Filipino civilian, thereby causing his death, in violation of the laws of war.

SPECIFICATION 8: (As amended) In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat, torture, and kill Estanislao MAGBANUA and Anacleto ALLIC, Filipino civilians, in violation of the laws of war.

SPECIFICATION 9: Deleted.

SPECIFICATION 10: Deleted.

ADDITIONAL SPECIFICATION 11: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, sometime between 1 December 1942 and 1 June 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Gabriel ESPINO, Filipino, in violation of the laws of war.

ADDITIONAL SPECIFICATION 12: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of February or March, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including William KANAN, in violation of the laws of war.

ADDITIONAL SPECIFICATION 13: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Roman MARAVILLA, Filipino, in violation of the laws of war.

ADDITIONAL SPECIFICATION 14: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of October, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Felipe LUMACANO, ORIANETA, first name unknown, and MERCADO, first name unknown, in violation of the laws of war.

ADDITIONAL SPECIFICATION 15: In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of November, 1942, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Manuel GOMEZ and Moises ALIPALA, Filipino civilians, in violation of the laws of war.

PLEAS

To all Specifications and the Charge: NOT GUILTY.

FINDINGS

Of Specifications, 1, as amended, 3, 4, 5, 7, 11 and 15, GUILTY, without exceptions;

Of Specification 8, as amended, GUILTY, except the words "and kill"; of the excepted words of Specification 8, NOT GUILTY:

Of Specification 14, GUILTY, except the word "Lumacano" spelled L-u-m-a-c-a-n-o, substituting therefor the word "Lumacang" spelled L-u-m-a-c-a-n-g, and except the words "Ormaneta, first name unknown, and Mercado, first name unknown." Of the excepted words NOT GUILTY; of the substituted word GUILTY.

Of Specification 6, as amended, 12 and 13, NOT GUILTY;
Of the Charge, GUILTY.

SENTENCE

To be confined at hard labor for life.

The sentence was adjudged 14 November 1946.

The sentence is approved and will be duly executed. Sugamo Prison, Tokyo, Japan, is designated as the place of confinement.

BY COMMAND OF MAJOR GENERAL MOORE:

J. G. CHRISTIANSEN
Major General, USA
Deputy Commander and
Chief of Staff

OFFICIAL:

J. J. Gerhardt

J. J. GERHARDT
Colonel, AGD
Adjutant General

DISTRIBUTION: Same as AR 310-50 and changes thereto, and

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- 3 - CG, PHILRYCOM
- 3 - AG, PHILRYCOM
- 5 - PM, PHILRYCOM
- 6 - Exec. Off, War Crimes Trials,
PHILRYCOM
- 2 - CO, General Prisoner Branch,
PHILRYCOM Stockade, APO 900
- 2 - CO LUPOW #1

HEADQUARTERS
PHILIPPINES-RYUKYUS COMMAND

Military Commission) APO 707
: 27 January 1947
Orders No..... 7)

Before a Military Commission which convened at the High Commissioner's Residence, Manila, Philippine Islands, on 4 November, 1946, pursuant to Letter Order, General Headquarters, SCAP, AG 000.5 (3 June 46) LS, dated 3 June 1946, Subject: "Trial of Shuji KAWAMORI", with indorsement thereto, General Headquarters, AFPAC, 3 June 1946 and paragraph 12, Special Orders 243, Headquarters AFWESPAC, 22 October 1946, paragraph 2, Special Orders 254, Headquarters AFWESPAC, 30 October 1946 and paragraph 3, Special Orders 254, Headquarters AFWESPAC, 4 November 1946, was arraigned and tried:

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Of the Charge, GUILTY.

SENTENCE

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BY COMMAND OF MAJOR GENERAL MOORE:

J. G. CHRISTIANSEN
Major General, USA
Deputy Commander and
Chief of Staff

OFFICIAL:

J. J. Gerhardt

J. J. GERHARDT
Colonel, AGD
Adjutant General

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PHILRYCOM
- 2 - CO, General Prisoner Branch,
PHILRYCOM Stockade, APO 900
- 2 - CO LUPOW #1

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

Shuji KAWAMORI

ARRAIGNMENT AND

PUBLIC TRIAL

VOLUME I

PAGES 1 TO 105, INCL.

MANILA, P. I.

DATE: 4 November 1946

COPY NO: 10

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109

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

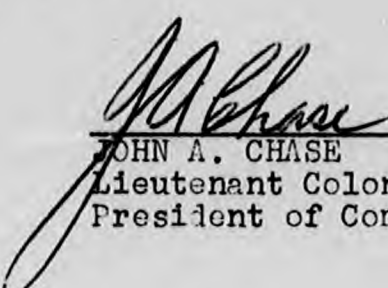
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.



JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

VS

Shuji KAWAMORI

ARRAIGNMENT AND

PUBLIC TRIAL

Court No. 2 and No. 3
High Commissioner's Residence
Manila, P. I.
4 November 1946

Met, pursuant to notice, at 0900 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP, President
and Law Member

LIEUTENANT COLONEL ROBERT C. GUHL, CAC

CAPTAIN LOUIS J. WERLINGER, TC

CAPTAIN HARLYN W. LACEY, CAV (C.M)

APPEARANCES :

FOR THE PROSECUTION:

MR. ABRAHAM BLACK, CS, Chief Prosecutor
SECOND LIEUTENANT DEMETRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, Chief Defense Counsel, CS
MR. OTTO SCHULTZ, Assistant Defense Counsel, CS

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTEO DIANALA JO) ILONGO (VISAYAN)
ROGELIO CATANJAL)

MR. ROMUALDO TACCAD)
2D LT. SAMUEL S. KOIDE) JAPANESE
2D LT. TAICHI NISHIHARA)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY COMMISSION</u>
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	<u>OFFERED</u>	<u>RECEIVED</u>	<u>WITHDRAWN</u>
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Prosecution's Exhibit No. 2	4	4	
Prosecution's Exhibit No. 3	4	5	

DOCUMENTARY EVIDENCE

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GENERAL

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P R O C E E D I N G S

(The Commission convened, pursuant to notice, at 0900 hours, at Court No. 2, High Commissioner's Residence, Manila, P. I., 4 November 1946.)

COLONEL CHASE: The Commission will come to order and hear any matter to be brought before it.

MR. BLACK: Sir, may the record show that the members of the Commission are present, the accused together with his personal interpreter, members of the defense counsel, and members of the prosecution staff, are present.

Sir, it has been agreed between accused, his counsel, and the prosecution that translation of these proceedings into Japanese by the official interpreter is not required since the accused has a personal interpreter. It is therefore requested, and defense counsel joins in the request, that such translation be dispensed with unless specifically requested by the accused in the course of trial.

COLONEL CHASE: So ordered.

MR. BLACK: There has been referred to this Commission for trial the case of the United States of America against Shuji Kawamori, 51J-90492. The accused is now present together with defense counsel appointed by the convening authority. The prosecution is ready to proceed.

COLONEL CHASE: You may proceed.

MR. BLACK: The prosecution submits, for incorporation into the record of these proceedings, the following document: Paragraph 12 of Special Orders 243, Headquarters,

United States Army Forces, Western Pacific, dated 22 October 1946, entitled "Appointment of a Military Commission," and as amended by Paragraph 2, Special Orders 250, dated 30 October 1946, same headquarters.

COLONEL CHASE: There being no objection, the Special Orders will be incorporated into the record of these proceedings.

"RESTRICTED

"HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

Special Orders)

"APO 707

No. 243)

EXTRACT

22 October 1946

"12. The following officers are appointed members of a Military Commission to meet in the City of Manila, Philippine Islands, at the call of the President thereof, for the trial of Shuji KAWAMORI, accused war criminal. (Authority: 1st Ind, GHQ, AFPAC, APO 500, 3 June 1946, to letter, GHQ, SCAP, file AG 000.5 (3 June 46) LS, dated 3 June 1946, subj: "Trial of Shuji Kawamori"):

"LT COL JOHN A CHASE CMP President and Law Member

"LT COL HORACE E STOUT ORD

"CAPT LOUIS J WERLINGER TC

"CAPT HARLYN W. LACEY CAV(QM)

"MR. ABRAHAM BLACK, CS, is designated Chief Prosecutor and 2D LT DEMETRIO R ICO, INF (PA), is designated Asst. Prosecutor. MR ROBERT L WARD, CS, is designated Chief Defense Counsel and MR. JOHN J. SCHAUER, CS, is designated Asst. Defense Counsel.

"The Commission will follow the provisions of Letter, GHQ, SCAP, dated 5 December 1945, subj: "Regulations Governing the Trials of Accused War Criminals."

"The record of trial including any judgment or sentence will be transmitted directly to this headquarters for action by the appointing authority.

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"J J GERHARDT
Colonel, AGD
Adjutant General

"OFFICIAL:

/s/ "Bruton B. Schardt
/t/ BRUTON B SCHARDT
1st Lt, CAC
Actg Asst Adj Gen

"RESTRICTED"

"RESTRICTED

"HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders)

"APO 707

No. 250)

EXTRACT

30 October 1946

"2. So much par 12, SO 243, cs, this hq /apmt Mil Commission (KAWAMORI)_7 as reads "LT COL HORACE E STOUT, ORD", is amended to read, "LT COL ROBERT C GUHL, CAC".

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"J J GERHARDT
Colonel, AGD
Adjutant General

"OFFICIAL:

/s/ "Bruton B. Schardt
/t/ BRUTON B. SCHARDT
1st Lt., CAC
Actg Asst Adj Gen

"RESTRICTED"

MR. BLACK: The prosecution offers in evidence the following document marked for purposes of identification as Prosecution's Exhibit No. 1: Letter Order AG 000.5 (5 Dec 45) LS, General Headquarters, Supreme Commander for the Allied Powers, dated 5 December 1945, subject, "Regulations Governing the Trial of War Criminals."

COLONEL CHASE: Is there any objection by the defense?

MR. SIMON: No objection, sir.

COLONEL CHASE: There being no objection, the document will be received in evidence as Prosecution's Exhibit No. 1.

(Prosecution's Exhibit No. 1
was received in evidence.)

MR. BLACK: The prosecution offers in evidence the following document marked for purposes of identification as Prosecution's Exhibit No. 2: Letter Order AG 000.5 (3 June 1946) LS, General Headquarters, Supreme Commander for the Allied Powers dated 3 June 1946, subject, Trial of Shuji Kawamori and 1st Indorsement thereto dated 3 June 1946.

COLONEL CHASE: Is there any objection by the defense counsel?

MR. SIMON: No objection, sir.

COLONEL CHASE: There being no objection, the document will be received in evidence as Prosecution's Exhibit No. 2.

(Prosecution's Exhibit No. 2
was received in evidence.)

MR. BLACK: The prosecution offers in evidence the following document marked for purposes of identification as Prosecution's Exhibit No. 3: Letter Order, President of this

Commission dated 2 November 1946, subject, "Swearing witnesses for the trial of Shuji Kawamori."

COLONEL CHASE: Is there any objection by the defense counsel?

MR. SIMON: No objection, sir.

COLONEL CHASE: There being no objection, the document will be received in evidence as Prosecution's Exhibit No. 3.

(Prosecution's Exhibit No. 3
was received in evidence.)

MR. BLACK: The prosecution is ready to proceed with the arraignment of Shuji Kawamori, 51J-90492.

COLONEL CHASE: The reporters will be sworn.

(Nora O'Connell and S. Cornelia Peveto were duly sworn as official court reporters.)

COLONEL CHASE: The interpreters will be sworn.

(Filoteo Dianala Jo, Rogelio Catanjal, Mr. Romualdo Taccad, 2d Lt. Samuel S. Koide, and 2d Lt. Taichi Nishihara were duly sworn as official court interpreters.)

COLONEL CHASE: The Commission will be sworn.

(Lieutenant Colonel John A. Chase, Lieutenant Colonel Robert C. Guhl, Captain Louis J. Werlinger, and Captain Harlyn W. Lacey were duly sworn as members of the Commission.)

COLONEL CHASE: The prosecution will be sworn.

(Mr. Abraham Black and 2nd Lieutenant Demetrio R. Ico were duly sworn as counsel for the prosecution.)

MR. BLACK: A certified copy of the Charge and Specifications and the amended Specifications as amended, deleted, and added, against Shuji Kawamori, together with a

true and complete translation thereof, were served upon the accused by me, Abraham Black, civilian prosecutor, on 16 October 1946 at the High Commissioner's Stockade, Manila, Philippine Islands. Defense counsel was appointed originally by the Executive for War Crimes on September 15, 1946. However, there has been a substitution and Mr. Kenneth K. Simon is now the defense counsel in the case, together with Mr. Otto Schultz as the assistant defense counsel. Defense counsel was furnished a copy of the Charge and Specifications against the accused on September 18, 1946, and the amended copy on September 27, 1946, and has been working on the preparation on this case since that time.

COLONEL CHASE: Mr. Simon, are you sufficiently informed of the case?

MR. SIMON: Yes, sir. The record may show that orders are now being published which will appoint me as the chief defense counsel and Mr. Schultz as the assistant defense counsel.

COLONEL CHASE: I have a note from the Executive of War Crimes Trials directing that we move to Court No. 3 immediately. Therefore, we will recess and convene in Courtroom No. 3 in about ten minutes.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: May the record show that at the time the Commission reconvened in Court No. 3 all members of the Commission, the accused together with personal interpreter, defense counsel and prosecutors were present.

COLONEL CHASE: Will the reporter read back the last proceedings?

(The requested portion was read.)

COLONEL CHASE: The rights of the accused as set forth in paragraph 5b of letter dated 5 December 1945, General Headquarters, Supreme Commander for the Allied Powers, entitled "Regulations Governing the Trial of War Criminals," heretofore introduced into evidence as Prosecution's Exhibit No. 1, will be read and explained.

(The accused together with his personal interpreter, the chief defense counsel and assistant defense counsel stood before the Commission.)

MR. BLACK: (Reading) "Rights of the accused. The accused shall be entitled:

"(1) To have in advance of trial a copy of the Charges and Specifications clearly worded so as to apprise the accused of each offense charged.

"(2) To be represented, prior to and during trial by counsel appointed by the convening authority or counsel of his own choice, or to conduct his own defense.

"(3) To testify in his own behalf and have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the Commission.

"(4) To have the substance of the Charge and Specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them."

Will the interpreter read the rights of the accused to him and ask him if he understands the rights?

MR. SIMON: Sir, the rights of the accused have been read and explained to him by his personal interpreter. He understands the rights and we waive the reading of the rights by the official court interpreter.

COLONEL CHASE: The provisions of sub-section (1)

having been complied with, it appearing that a certified copy of the Charge and Specifications, together with a true and complete translation thereof, were served upon the accused 16 October 1946, whom does the accused desire to introduce as defense counsel?

(Translated to the accused by Interpreter Koide.)

THE ACCUSED: (Through Interpreter Koide) Mr. Simon,

COLONEL CHASE: Does he also desire Mr. Schultz as assistant defense counsel?

(Translated to the accused by Interpreter Koide.)

THE ACCUSED: (Through Interpreter Koide) Yes.

COLONEL CHASE: Does the accused wish to have the Charge and Specifications read and translated to him?

MR. SIMON: The accused has had the Charge and Specifications and the amended Specifications read and translated to him by his personal interpreter. He does not desire that they be translated by the official court interpreter.

COLONEL CHASE: Will the court interpreter ask him if that is correct?

(Translated to the accused by Interpreter Koide.)

THE ACCUSED: (Through Interpreter Koide) Yes.

COLONEL CHASE: Does the accused understand the Charge, Specifications, Affidavit of Accuser, reference for trial and certificate of service which have been read to him?

MR. SIMON: He does.

MR. BLACK: The prosecution now introduces for incorporation into the record the original Charge and Specifications, Affidavit of Accuser, reference for trial and certificate of service which have been read to him. We ask for permission to

withdraw same and have a certified copy thereof introduced into the record.

COLONEL CHASE: There being no objection, the Charge and Specifications are incorporated into the record of these proceedings.

"GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

"Before the
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces,
Western Pacific

"UNITED STATES OF AMERICA

VS

Shuji KAWAMORI

" CHARGE

"That Shuji KAWAMORI, ISN 51J-90492, formerly First Lieutenant of the Imperial Japanese Army, on the dates and at the places hereinafter specified, and while a state of war existed between the United States of America, its allies and dependencies, and Japan, did violate the laws and customs of war."

"SPECIFICATIONS

"1. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Roberto Belix RAMOS, a Filipino civilian, in violation of the laws of war.

"2. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the Municipality of Silay, Province of Occidental Negros, Philippines, in or about the month of February, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command to kill Rufino SION, a Filipino civilian, in violation of the laws of war.

"3. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Cresencio FEDEREZ, a Filipino civilian, in violation of the laws of war.

"4. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of February, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Emilio B. PARRENO, a Filipino civilian, in violation of the laws of war.

"5. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near Barrio Talotog, Municipality of Bago, Province of Occidental Negros, Philippines, in or about the month of March, 1944, during a time of war between the United States of America, its allies and dependencies,

and Japan, wrongfully and unlawfully permit soldiers under his command to kill Vicente TORRES, a Filipino civilian, in violation of the laws of war.

"6. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the months of March and April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Lope LEDESMA, a Filipino civilian, in violation of the laws of war.

"7. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Domingo MANANQUEL, a Filipino civilian, thereby causing his death, in violation of the laws of war.

"8. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat, torture, and kill Estanislao MAGBANUA, a Filipino civilian, in violation of the laws of war.

"9. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the Municipality of Silay, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command to kill Moises MANA-AY, a Filipino civilian, in violation of the laws of war.

"10. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the Municipality of Silay, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command to kill Ambrosio BELASA, a Filipino civilian, in violation of the laws of war.

"3 June 1946

s/ "Alva C. Carpenter
t/ ALVA C. CARPENTER
General Headquarters
Supreme Commander for the Allied Powers

"AFFIDAVIT

"Before me personally appeared the above-named accuser this 3d day of June 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge, and further that he has investigated the matters set forth in the charge, and that it is true in fact, to the best of his knowledge and belief.

s/ "Edmund M. Sweeney
t/ EDMUND M. SWEENEY
1st Lt., JAGD, AUS

"GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
APO 707

"25 October 1946

"Referred for trial to Mr. Abraham Black, GS, Chief
Prosecutor of the Military Commission appointed by paragraph
12, Special Orders No. 243, this Headquarters, 22 October 1946.

"By command of Major General CHRISTIANSEN:

/s/ "Bruton S. Schardt
/t/ BRUTON S. SCHARDT
1st Lt. CAC
Actg Asst Adj Gen.

"A Certified True Copy:

/s/ "Murray F. Gibbons, Jr.
/t/ MURRAY F. GIBBONS, JR.,
Capt., Inf.

"I hereby certify that I have served a copy hereof,
together with a true and complete translation thereof into
Japanese, on the above-named accused this 16th day of October
1946.

/s/ "Abraham Black, Pros."

"GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

"Before the MILITARY COMMISSION convened by the COMMANDING GENERAL, United States Army Forces, Western Pacific	))))))	"UNITED STATES OF AMERICA vs Shuji KAWAMORI
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"AMENDMENT, DELETION, AND ADDITION OF SPECIFICATIONS

"Specification 1 in the above captioned case which
states:

" '1. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Roberto Felix RAMOS, a Filipino civilian, in violation of the laws of war.'

is hereby amended to read as follows:

"1. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of January, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Roberto Felix RAMOS, Epifanio BAJA, Antipas BALLIGUAS, and Jose GARCIA, in violation of the laws of war.

"Specification 6 in the above captioned case which states:

" '6. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the months of March and April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Lope LEDESMA, a Filipino civilian, in violation of the laws of war.'

is hereby amended to read as follows:

"6. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the months of March and April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Lope LEDESMA, Jose VILLASOR, and Rosenda HERADURA, in violation of the laws of war.

"Specification 8 in the above captioned case which states:

" '8. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat, torture, and kill Estanislao MAGBANUA, a Filipino civilian, in violation of the laws of war.'

is hereby amended to read as follows:

"8. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat, torture, and kill Estanislao MAGBANUA and Anacleto ALLIC, Filipino civilians, in violation of the laws of war.

"Specifications 2, 9, and 10 in the above captioned case are deleted.

"The following specifications are hereby added in the above captioned case:

"11. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, sometime between 1 December 1942 and 1 June 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Gabriel ESPINO, Filipino, in violation of the laws of war.

"12. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of February or March, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including William KANAAN, in violation of the laws of war.

"13. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Roman MARAVILLA, Filipino, in violation of the laws of war.

"14. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of October, 1943, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture an unascertained number of Filipino civilians including Felipe LUMACANO, ORMANETA, first name unknown, and MERCADO, first name unknown, in violation of the laws of war.

"15. In that Shuji KAWAMORI, a member of the Imperial Japanese Army, did, at or near the City of Bacolod, Province of Occidental Negros, Philippines, in or about the month of November, 1942, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Manuel GOMEZ and Moises ALIPALA, Filipino civilians, in violation of the laws of war.

"Dated: 28 September 1946

/s/ "William S. Yard
/t/ WILLIAM S. YARD
Chief, Prosecution Division
Legal Section, Manila Branch

"AFFIDAVIT

"Before me personally appeared the above-named accuser this 28th day of September 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing amendment, deletion, and addition of specifications, and further that he has investigated the matters set forth in the said amendment, deletion, and addition of specifications, and that it is true in fact to the best of his knowledge and belief.

/s/ "Everett Checket
/t/ EVERETT CHECKET
Major INF
Summary Court

"GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, WESTERN PACIFIC
APO 707

"25 October 1946

"Referred for trial to Abraham Black, CS, Chief Prosecutor of the Military Commission appointed by paragraph 12 Special Orders No. 243, this Headquarters, 22 October 1946.

"By command of Major General CHRISTIANSEN:

/s/ "Bruton B. Schardt
/t/ BRUTON B. SCHARDT
1st Lt. CAC
Actg Asst Adj Gen.

"A Certified True Copy:

/s/ "Murray F. Gibbons, Jr.
/t/ MURRAY F. GIBBONS, JR.,
Capt., Inf.

"I hereby certify that I have served a copy hereof, together with a true and complete translation thereof into Japanese, on the above-named accused this 16th day of October, 1946.

/s/ "Abraham Black
/t/ ABRAHAM BLACK
Prosecutor"

COLONEL CHASE: Does the defense at this time have any motions or other matter to present to the Commission?

MR. SIMON: Sir, defense has a preliminary motion to present which states that this Commission has no authority to meet and decide cases since July 4, 1946, in the Philippine Islands; that since the Independence, the Declaration of Independence of the Philippines, on July 4, 1946, it is required that there be some affirmative showing of a treaty or an agreement between the Philippine Commonwealth and the United States Government that gives our army, our military authorities, rights to try and hold court or commissions in the Philippine Islands for atrocities committed against the citizens of the Philippines.

COLONEL CHASE: Any comment by the prosecution?

MR. BLACK: If it please the Commission, this Commission is duly and regularly appointed by the convening authority and it is not within its scope or power to question or take up for consideration the subject matter of the motion made by defense counsel. It is not for them to question the points but to proceed as ordered by higher authority with the case of the accused, Shuji Kawamori.

MR. SIMON: If it please the Commission, I merely wish to comment that it is always within the Commission's

jurisdiction to consider the legality of the order that orders you to proceed, convene and proceed and try a case. Now, it is fundamental basis of even war crimes work that the order will not protect you if it is illegal, if there is no basis for it. There has been no showing by the prosecution of any provision of any bill or treaty or agreements that grants to the United States Army extra-territorial rights within the Republic of the Philippines. This order to proceed and try accused war criminals for alleged atrocities against Filipino citizens when they have courts now functioning in the Philippines they have their own army, they have their own military set-ups, and I believe the order should be checked into.

MR. BLACK: It is not for the prosecution or the Commission to go into the basis for the order of reference for trial of Shuji Kawamori. It has been properly referred and ordered for trial, and it is not for the Commission or the prosecution to question.

COLONEL CHASE: The Commission will go into closed session to consider the motion.

(The Commission recessed to go into executive session.)

COLONEL CHASE: The Commission is in open session.
The motion of the defense is denied. Is the accused
now ready to enter his plea?

SHUJI KAWAMORI: (through Interpreter Koide) Yes.

COLONEL CHASE: Shuji Kawamori at this time the
Commission will hear you plea to the original Charge and
Specifications and amendments thereto which have been incor-
porated into the record of these proceedings. You may plead
either GUILTY or NOT GUILTY.

SHUJI KAWAMORI: (through Interpreter Koide) NOT
GUILTY.

COLONEL CHASE: To the Charge and Specifications
as amended?

SHUJI KAWAMORI: (through Interpreter Koide) NOT
GUILTY.

COLONEL CHASE: Are the prosecutor and defense
counsel ready to proceed with the trial of the accused?

MR. BLACK: The prosecution is ready to proceed.

MR. SIMON: The defense is ready to proceed.

COLONEL CHASE: Both sides being ready, the Com-
mission will proceed with the trial of the case of the
United States of America versus Shuji Kawamori.

Does the prosecution have any recommendation to make
as to time of trial?

MR. BLACK: The prosecution is ready to proceed, sir.

COLONEL CHASE: Does the defense have any recom-
mendation to make as to time of trial?

MR. SIMON: The defense is ready to proceed right
now, sir.

COLONEL CHASE: The prosecution will proceed with the presentation of its case.

MR. BLACK: The prosecution will call for its first witness, Justiniano Quillinguin.

JUSTINIANO QUILLINGUIN

a witness for the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your full name?

A Justiniano Quillinguin.

Q Can you spell that?

A J-U-S-T-I-N-I-A-N-O Q-U-I-L-L-I-N-G-U-I-N.

MR. BLACK: This witness is expected to give testimony in support of Specifications 1, 3, and 11.

Q What is your nationality?

A Filipino.

Q How old are you?

A I am thirty-three years old.

Q And prior to and during the Japanese occupation where did you live?

A I lived in Bacolod City, Occidental Negros.

MR. BLACK: Would you turn your chair just a little bit this way (indicating) and speak up loudly so that every member of the Commission can hear you.

(Witness does as requested.)

Q What was your occupation?

A Before the war and after the war I was an optical mechanic.

Q From about October 1942 until July 1944 where did you live?

A I was with the Japanese Military Police Headquarters as a cook.

Q Do you know the name of the Japanese Military Police for whom you worked as a cook -- I mean the name of the organization?

A Kempei Tai at Bacolod City.

Q Do you know Shuji Kawamori?

A Yes, sir.

Q If you see him in the courtroom, will you point him out?

A It is that man, sir (indicating).

Q Will you walk over and point him out, -- go over to the table and point him out.

A That is the man, sir.

MR. BLACK: May the record show that the witness pointed out the accused.

Q Do you know his rank in the Japanese Army -- do you understand what rank means?

A Yes, sir.

Q Do you know what his rank was?

A Yes.

Q What was it?

A When he arrived at the Bacolod Japanese Military Police Headquarters he was wearing three bars and one star which is

equivalent to a second lieutenant in our language. Then when he departed or left Bacolod City about the end of June, 1944, he had the rank of three bars and two stars.

COLONEL CHASE: What is that rank, do you know?

A First Lieutenant.

Q During that period do you know who was in charge and the commanding officer of the Kempei Tai in Bacolod?

A He was Lieutenant Kawamori, sir.

Q Do you know the names of the other members of the Kempei Tai in Bacolod?

A Yes, sir.

Q Will you give us the names of some of the members?

A The first group of Japanese Military Police who arrived in Bacolod City on May 21, 1942, were Gocho Kawamori, Hirakawa.

MR. SIMON: The word "Gocho", I may state is the rank, not name. It is equivalent to a "buck" sergeant in our Army.

A (continuing) Yamashita, Gocho; Nakamura, Gocho; Marikawa, Socho and lastly Konno, Heicho. The second group, of which there were four, arrived in September, 1942, of which they were Sasaki, Socho; Maekawa, Socho, and Kurehara, Gocho, and Kushibe, Gocho.

Q Do you know the names of the interpreters of the Kempei Tai?

A Yes, sir.

Q Will you tell us their names?

MR. SIMON: On what date? Fix the date.

Q Between October 1942 and July 1944.

A They were Yamane, Uehara, Serada, and Kajiyama.

Q Where was the first office of the Bacolod Kempei Tai located?

A It was at the De La Pena Building on Rizal Street, Bacolod.

Q And where and when did they move from the De La Pena Building?

A We transferred to the Bacolod Private Hospital last December 20, 1942.

Q And from December 1942 to July 1944 did the Kempei Tai remain at the Bacolod Private Hospital?

A Yes, sir, it remained there until the liberation.

Q Who was in charge of the Bacolod Kempei Tai before Lieutenant Kawamori came there?

A He was Marikawa Socho, sir.

Q And who was the commanding officer after Lieutenant Kawamori left?

A He was succeeded by Lieutenant Unai.

Q What part or parts of the hospital were occupied by the Kempei Tai?

A The second floor. The first floor and the next floor, two floors,-- ground floor and upstairs.

Q Will you tell us what was on the first floor.

A On the first floor, downstairs, there were the cells -- Kempei Tai cells -- and there was the office of the Mess Officer.

Q When you say there were cells, what do you mean?

A The compartments where the persons arrested were confined.

Q What kind of persons?

A Those who were suspected as guerrillas.

Q Who were these persons suspected? Don't tell us names but I mean who were they, Filipinos, Japanese or Americans.

A They were Filipino civilians who were incarcerated in the Japanese cells.

Q What was on the second floor?

A Upstairs there was the office of the investigators, and the office of the chief of the Japanese Military Police, and the two rooms upstairs which were occupied by the investigators during the investigation of those who were arrested.

Q Where did Lieutenant Kawamori have his office?

A He had his office on the first -- second floor.

Q Which is it, the first or the second floor?

A The first, upstairs on the right. The first floor - the first room on the right upstairs.

Q Do you mean the second floor? That is you say there were two floors, the first and second floor?

A Yes, sir.

Q Where did Lieutenant Kawamori have his office?

A Upstairs.

Q The second floor?

A The second floor, sir. The first room on the second floor.

COLONEL CHASE: For the purpose of the record for

the reviewing authority, I think the record should show that the Filipino designation of floors in buildings is different from the American. That is the ground floor is known as the ground floor and the floor next above is commonly known as the first floor. It is the first floor, Filipino style, which you refer to, is that correct? The floor above the ground floor.

A The floor above the ground, that is correct.

COLONEL CHASE: There were only two floors in the building, the ground floor and the one next above which the Filipinos usually call the first floor?

A Yes, sir.

Q You stated that you worked as a cook for the Bacolod Kempei Tai, is that correct?

A Yes, sir.

Q From when to when?

A From the landing of the Japanese Imperial Forces on May 21, 1942, to the liberation, March 29, 1945. I was absent from the Japanese Military Police from the months of August 1 to October 31.

Q What year?

A Of 1944. Then by November 1 until the liberation I was back with the Japanese Military Police Officers as a cook.

Q Did you also live at the hospital?

A My house was right in front. It was the building right on Smith Street and my residence, or house, is right in front of the Japanese Military Police Headquarters.

Q What were your working hours during the period between October 1942 and July 1944, if you remember?

A Early in the morning, about five o'clock, I was awakened by the guard of the Japanese Military Police.

Q Is it your testimony that you would be awakened by a guard every morning?

A Yes, sir.

Q And how late did you work?

A I go home about ten o'clock at night, sir.

Q During the period between October 1942 and July 1944 were there any Filipino civilians arrested, investigated, and imprisoned at the Bacolod Kempei Tai?

MR. SIMON: The defense will object to that question, sir. It incorporates three questions into one.

MR. BLACK: I will withdraw the question. I merely did it for the purpose of expedition.

Q During that period were there any Filipinos arrested by the Bacolod Kempei Tai, if you know?

A Yes, sir, there were many.

Q During that period were there any Filipinos investigated at and by the Bacolod Kempei Tai?

A Yes, sir.

Q During that period were there any Filipinos imprisoned at the Bacolod Kempei Tai headquarters?

A Yes, sir.

Q During that period were there any Filipinos tortured and mistreated by and at the Bacolod Kempei Tai headquarters?

MR. SIMON: The defense will object to that until a foundation is laid to show that this man, who was a cook, was in a position to observe or know what was going on as to any mistreatment or torturing of Filipinos in Bacolod.

MR. BLACK: I will ask him that. Let the record show that his answer is based on his own personal knowledge. I will withdraw the question and will simplify the whole thing.

Q Do you know whether or not during that period any Filipinos were beaten and tortured at the Bacolod Kempei Tai headquarters in the hospital?

A Yes, sir.

Q Do you remember any of the people who were beaten -- withdraw that.

A Yes, sir.

MR. BLACK: Strike that answer.

Q During that period do you know the names of any Filipinos who were arrested and imprisoned at the Bacolod Hospital, the headquarters of the Kempei Tai?

A Yes, sir.

Q Will you tell us the names of some of the people?

A Mr. Epifanio Baja, Roberto Ramos, Antipas Baliguas, and more than ten others who were their companions.

Q Do you know Gabriel Espino?

A Yes, sir.

Q Was he arrested and imprisoned at the Kempei Tai headquarters?

A Yes, sir, he was arrested and imprisoned.

Q Do you know about when Epifanio Baja was arrested and imprisoned?

A The early part of 1943.

Q And how about Felix Ramos?

A They were arrested at the same time on the same date.

Q And do you recall approximately when Gabriel Espino was arrested?

A The early part of 1944.

MR. SIMON: Will the reporter please read that last question and answer.

(Reporter read last question and answer.)

Q Where was the kitchen located?

A The kitchen was located right on the center of the back of the Japanese Military Police Headquarters on the grounds.

Q When you say "grounds" do you mean ground floor?

A Yes, sir, the ground floor.

Q With relation to -- and if you don't understand my question tell me -- with relation to the cells, where was the kitchen?

A The kitchen was right here (indicating) in the middle part at the back of the headquarters and the cells were on the right side of the first floor. There was an elevation which I mentioned, that is the first floor.

Q About how far were the cells from the kitchen? Can you indicate in this courtroom?

A About five meters.

Q Can you indicate from here to some point?

A There is the kitchen (indicating), and over to the pile of grass there.

MR. BLACK: Would you say that is about twenty five feet, Mr. Simon?

MR. SIMON: That is right.

MR. BLACK: May the record so indicate.

Q How many cells were there?

A There were two cells.

Q With relation to the investigating room, or rooms, how far were they from the kitchen and in what position?

A The investigation rooms were right above the two cells, upstairs.

Q You mean they were above the two cells?

A The two cells on the first floor upstairs were the two investigating rooms right above the two cells.

Q In the early part of January, 1943, you testified that Epifanio Baja was arrested?

MR. SIMON: I believe the record will not show that his testimony was in the early part of 1943. The defense will object to the question as assuming facts that are not in evidence.

MR. BLACK: It is an error on the part of the prosecution. I will withdraw the last question.

Q When did you say Epifanio Baja was arrested?

A About the early part of 1943, sir.

Q And what happened, if you know, to Epifanio Baja when he was there?

A The first day he was imprisoned there he was taken upstairs to the investigation room with Sasaki and Yamane, the interpreter, Sasaki was the investigator.

Q How do you know that?

A I know that because the stairs from the cell is direct to the investigation room.

Q Did you see it?

A Yes, sir.

Q What happened to Epifanio Baja?
A He was beaten, sir, severely.
Q Do you know by whom?
A By Sasaki.
Q And who was Sasaki?
A Sasaki was with the interpreter, Yamane.
Q You know Epifanio Baja, do you?
A Yes, sir.
Q How long have you known him?
A Before the war, sir.
Q How long was Epifanio Baja kept at the Kempei Tai, if you know?
A It was more than two weeks, sir.
Q Do you -- withdraw that -- when was Felix Ramos brought to the Kempei Tai?
A He was together with Mr. Baja. They were arrested at the same time.
Q And for about how long, if you know, was Ramos imprisoned at the Bacolod Kempei Tai?
A For more than five months, sir.
Q And do you know whether Ramos was beaten and tortured during that time?
A Yes, sir.
Q Will you tell us what you know.

MR. SIMON: I object to that unless there is a foundation laid to show what he now bases his knowledge on.

COLONEL CHASE: The prosecution can continue to attempt to develop this by his own line of questioning. He has shown that the witness was present daily, and then he stated

he knows certain things. Counsel can develop later the opportunity he had to see them and know of them.

MR. BLACK: Will the reporter read the question, please.

(Reporter read the question.)

Q (continuing) About the beating and torturing of Ramos?

A One day when he was taken upstairs after several hours of investigation, he was brought to the cell with many fatal bruises on his body.

Q Did you talk to him?

A No, sir.

Q Did you see his body?

A Yes, sir.

Q How, under what circumstances?

A I saw his body because he was only wearing a mere undershirt when he was taken upstairs.

Q Where did you see him, upstairs, or elsewhere? What place did you see him at that time?

A When he was taken upstairs and when he was brought back to the cell downstairs.

Q You saw him when he came back to the cell downstairs when he was brought to the other cell?

A Yes, sir.

Q How did it happen that you could see that?

A I could see that because our kitchen was an open one with no walls, only roof, so that the prisoners who were taken upstairs you could see.

Q Never mind the prisoners who were taken upstairs. We are talking about Ramos?

A Yes, sir.

Q Just tell us how you could see the bruises on Ramos.

A I have seen the bruises on Ramos when he was brought back to the cell, because he wore only a mere undershirt and the fatal bruises were on his both arms.

Q Were there any other places that you could see?
A On the lap, sir.
Q On the what?
A On the laps.
Q On the thighs?
A On the thighs.
Q Didn't he wear pants?
A He was only wearing drawers.
Q Was it below the drawers?
A Yes, sir.
Q Where it was bare, nude?
A The drawers were too short, sir, so that the bruises right here (indicating) on the legs and thighs were very visible to me.
Q Did Roberto Ramos ever talk to you?
A No, sir.
MR. SIMON: Sir, there has been no reference made to a Roberto Ramos. The witness has testified about a Felix Ramos.
MR. BLACK: For the sake of the record, let's clear it up. Thank you, Mr. Simon.
Q Do you know the full name of Mr. Ramos?
A Yes, sir.
Q What is it?
A Roberto Ramos.
Q Do you know him?
A Yes, sir.
Q When was Gabriel Espino arrested?

A Before the middle part of 1944.

Q When you say "before the middle part" what, exactly do you mean, if you know?

MR. BLACK: I trust defense counsel will not think I am leading the witness, but I am trying to do the best I can to get a direct answer.

Q (Continuing) Do you mean the early part?

A The early part of 1944.

Q Do you know for about how long Gabriel Espino was kept at the Kempei Tai, if you know?

A More than three months, sir.

Q Do you know whether Gabriel Espino was beaten or tortured while he was there?

A Yes, sir, the last investigator was Yamanoue Goto. He was the investigator with Uehara, the interpreter. After the last investigation Gabriel Espino became groggy.

Q Who is Goto?

A Corporal in our rank.

Q Continue.

A (Continuing) When Gabriel Espino was fatally beaten by Yamanoue he was very much groggy. Yamanoue went out from the investigation room and called me downstairs. He had in his hand a small can of evaporated milk and he called me to dilute that small can of evaporated milk. I diluted two glasses of that milk and gave it to Gabriel Espino. When I let him drink he could not see me and he spoke to me, "Please pour water on my back. I cannot see." His fingers were on his eyes touching his two eyes.

Q Where did this take place that you have just described?

A The investigation room, sir, upstairs.

Q I mean when he came to you with a can of milk and asked you to dilute it and to pour water on his back, where were you and he?

A We were in the investigation room, sir.

Q What were you doing in the investigation room?

A I was called by Yamanoue to give the milk which I diluted and let Mr. Gabriel Espino drink.

Q Go ahead.

A And after he had drunk two glasses he lay down and then later on I went downstairs for a few minutes. The four men were called by Yamanoue to bring or carry Gabriel Espino downstairs back to the cell.

Q Did they carry him to his cell?

A Yes, sir.

Q Did you see them?

A I saw them, sir, because he can't walk at that time.

Q Who beat Gabriel Espino?

A Yamanoue.

Q How do you know?

A He was the one investigating him, sir.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The witness is reminded he is still under oath.

Q Who was it that was groggy? Was it Roberto Ramos, Epifanio Baja, Yamanoue, or was it Espino?

A He was Gabriel Espino.

Q Do you know whether Antipas Baliguas was ever beaten or tortured between October '42 and July '44, if you know?

MR. SIMON: I will object to that question on the grounds that "beaten" and "tortured" are such general terms that the witness is incapable of understanding the meaning. If somebody is struck or somebody touched he may say that is beating or that is torturing. The Commission will be unable to determine whether it was a beating or a torturing unless the question is directed specifically as to which person it is named in the specifications.

COLONEL CHASE: Objection is not sustained.

MR. BLACK: Will the reporter read the question?

(The question was read.)

A Antipas Baliguas was imprisoned together with Mr. Baja until the early part of 1943 and I don't remember whether he was beaten by the investigators of the Japanese Military Police.

Q Do you know a Felipe Lumaang? Answer "yes" or "no."

A I cannot remember.

Q Do you know a Cresencio Federez?

A Yes, sir, I know him.

Q Who is Cresencio Federez?

A Cresencio Federez was arrested by the Japanese Military Police in the early part of 1944.

MR. SIMON: To what specification is this testimony now directed?

MR. BLACK: This is Specification 3.

Q Go ahead.

A Cresencio Federez served there for more than five months in the Japanese Military Police Jail.

Q What do you mean "served there"?

A He was imprisoned.

Q Do you know anything about what happened to him other than having been imprisoned?

A When he was investigated I saw him taken upstairs and after the investigation I have seen that there were bruises on his arms, both arms, when he was brought back to the cell.

Q Do you know a Vicente Torres?

A I can't remember him, sir.

Q Did you ever talk to me about this case?

A Yes.

Q Did you see Lieutenant Kawamori beat any of the people that you testified about ?

A I have not seen him beating.

Q Did you ever see him present when these people were beaten?

A Yes, sir, because he visits the cell of the Japanese Military Police often.

Q Did Lieutenant Kawamori ever beat you or mistreat you personally in any way?

A No, sir, he didn't beat me.

MR. BLACK: Defense may inquire.

CROSS-EXAMINATION

BY MR. SIMON:

Q What time did you report for work at the kitchen usually?

A Usually, early in the morning about five o'clock.

Q Would you stay in the kitchen all day until about ten o'clock at night?

A Yes, sir.

Q You would spend a good deal of your time observing what was going on in that investigation room?

A Well, there are times when I am called upstairs by the investigators to serve them tea in the course of the investigation.

Q Were you ever called upstairs to the investigation room to assist in the investigation?

A No, sir, I am not called to assist but I am only called to give them a drink of tea in the course of the investigation.

Q How many times were you actually in that investigation room from October '42 until June of 1944?

A Several times, sir.

Q Do you remember the dates of each of these times?

A No, sir. It is hard for me to tell the exact time.

Q Were you in the investigation room in January of 1944?

A Well, I can't remember, sir.

Q Do you remember whether your visits to the investigation room ever lasted more than a minute or so or did you just deliver the tea and leave?

A Just delivered the tea and go back.

Q During the times you were in the investigation room did you ever observe any Japanese beat any Filipinos?

A Yes, sir.

Q During that minute that you were actually in the room you saw a Japanese beat a Filipino?

A Yes, sir.

Q When was the occasion that you saw the Japanese beat a Filipino with your own eyes?

A That was in the early part of 1944 when a certain man from Talisay was beaten by Naka, starting from ten o'clock in the morning and constant investigation until four o'clock in the afternoon. That man collapsed; he died.

Q Were you in that room from ten o'clock in the morning until four o'clock in the afternoon?

A I was not there but about eleven o'clock I was called upstairs to give or to serve tea to Naka with his interpreter.

Q Did you actually observe this man Naka strike the prisoner?

A Yes, sir, I have seen him.

Q While you were serving him tea did he take time off to strike the prisoner?

A When I went in he was beating that man.

Q Why do you hate Kawamori?

MR. BLACK: If it please the Commission--

MR. SIMON: I will withdraw the question.

Q Do you like Kawamori?

MR. BLACK: I object to that question.

MR. SIMON: It is always relevant to determine the witness' bias and prejudice to the accused.

COLONEL CHASE: Objection not sustained.

A As a Filipino, even though Lieutenant Kawamori was not the one who did the beating but because it was his supervision over the Japanese Military Police at that time, I think it is a pain to my heart that I will not be able to testify against Kawamori for what his subordinates have done to my countrymen who were prisoners during his administration.

Q Is it your feeling that you will testify to anything that will hurt Kawamori?

MR. BLACK: If it please the Commission, that is going a little too far astray.

MR. SIMON: If it please the Commission, from this witness' attitude and his eagerness and voluntary actions I believe the question is proper.

MR. BLACK: That is only a conclusion from the defense counsel to say his eagerness is based on things other than the truth.

COLONEL CHASE: Objection sustained.

Q Were there other Japanese units stationed at Bacolod from October '42 until June 1944?

A I am very much familiar only with the Japanese Military Police officers.

Q Was it only the Kempei Tai that was stationed at Bacolod from October '42 to June of 1944?

A There were other garrisons.

Q Wasn't there a unit known as the Yamaguchi Battalion that had units stationed at Bacolod?

A Yes, sir, I know that.

Q Didn't the Yamaguchi unit turn over to the Kempei Tai prisoners captured in the course of its operations?

A No, sir, those imprisoned in the Japanese Military Police were serving their sentences.

Q They were serving their sentences for what?

A For what they had been suspected of.

Q Did the Kempei Tai receive prisoners from these other units for investigation?

A I don't know that, sir, because they themselves do the arrests and do the investigations.

Q Did you know a Sergeant Takeshita?

A I have heard of him there, sir.

Q Didn't Sergeant Takeshita turn over prisoners to the Kempei Tai for investigation?

A I know nothing about that, sir.

Q Isn't it true that prisoners captured by these combat troops of Bacolod were investigated by these combat troops and then turned over to the Kempei Tai to be imprisoned?

A I do not know that, sir.

Q Do you know whether the Kempei Tai always captured their own prisoners?

A Because they themselves go on campaigns and patrolling--

Q Don't they go on those campaigns with the combat troops that are stationed in the area with the Yamaguchi Battalion?

A I don't know about that, sir.

Q How many men did they have in the Kempei Tai from October '42 until June '44?

A There were including the guards just about twenty.

Q Isn't it true that ten of those twenty men were soldiers from the Yamaguchi Battalion and were merely attached to the Kempei Tai?

A I don't know if they came from the other units but the soldiers there helped the Japanese Military Police officers.

Q Isn't it true that the Japanese Military Police, because there were so few of them, did not conduct patrols and operations on their own but only in conjunction with the Yamaguchi troops?

A I don't know that, sir. What I know is that they themselves go ahead and make arrests.

Q Were you ever present with them when they went out on a campaign?

A No, sir, but I could readily see them, because I was on the ground of that open kitchen.

Q Isn't it true that all you would see is when they would return to the garrison with some prisoners?

A When they are out, sir, I can always see.

Q Were you out with them during the campaigning?

A No, sir, I was not with them. When they are on the

road with their automobiles I can see that.

Q You have seen them leave the garrison and return to the garrison with prisoners, is that right?

A Yes, sir.

Q You don't know with whom they left?

A I don't know.

Q You don't know where they got the prisoners?

A I don't know, sir.

Q Did you ever see any Japanese soldiers imprisoned by the Kempei Tai for misconduct of any kind?

A I can't remember, sir, if there were.

Q Didn't you see Kajiyama, a Japanese, arrested and confined by the Kempei?

A He was arrested for his abuses, sir.

Q Wasn't there also other Japanese arrested because of their misconduct or abuse by the Kempei Tai?

A I have not observed, sir.

Q Did you observe whether Kajiyama had been beaten before he was brought back to the cell at the headquarters?

MR. BLACK: If it please the Commission, I don't like to interrupt defense counsel or make objections, but I don't see the point or relevancy.

COLONEL CHASE: It doesn't seem relevant. Will you explain what you are trying to get out?

MR. SIMON: Defense will show that there is a pattern adopted by the operation of a Kempei Tai unit; that the unit is small and that they received prisoners from the combat troops who go out and investigate their own prisoners.

These prisoners are mistreated by the combat troops, turned over to the Kempei Tai and confined at the prison. Many of the people whom he saw with bruises, received those bruises before they entered the compound or entered the Kempei Tai. Defense will show that many people apprehended by combat troops are turned over to the Kempei Tai and put in their cells in a beaten condition.

MR. BLACK: If it please the Commission, if I may intercede at this moment I have no objection in defense counsel trying to establish facts with regards to the victims about whom this witness has testified, if there is any basis for the contention made by defense counsel along those lines and the fact that the circumstances where or by what others they were arrested is immaterial. We are only concerned with what happened while victims or while the suspects were kept and how they were treated at the Kempei Tai headquarters located in the Bacolod Private Hospital. We are not charging the accused with anything that happened through others not connected with the Kempei Tai.

COLONEL CHASE: I will let you continue, Mr. Simon, for the time being to see what you develop but so far the relevancy appears very doubtful.

A No, sir, I have not observed that.

Q Do you recall whether Epifanio Baja was arrested in March or April of 1944?

A He was arrested, sir, the early part of 1944, but I can't tell exactly the month or the fixed date when he was arrested.

Q Was that the only time he was arrested by the Kempei Tai in the early part of 1944?

A 1943, sir, Baja.

Q Was it 1943 or 1942?

A 1943.

Q What fixes that particular time in your mind? How do you remember that?

A I remember that, sir. It is still fresh in my mind.

Q Yes, and did you talk this incident over with Baja before coming to this courtroom?

A No.

Q Did you talk this incident over with any one before coming to this courtroom?

A No.

Q Didn't you talk it over with Mr. Black before coming to this courtroom?

A I have spoken to my prosecutor.

Q And to who else did you talk?

A To no others except my prosecutor.

Q I see, and could you fix the month in 1943 when Baja was arrested? Was that April or May of 1943?

A I can't fix that, sir.

Q And was it March, April or May of 1943? Is it during those three months?

A Some time in the first months of 1943.

Q Could it have been March 1943?

A It could have been before that.

Q Could it have been after that too?

A Well, I am testifying only to the early part of 1943, sir.

Q Who told you you were testifying only about the early part of 1943?

A That is the very time I could only remember.

Q That is all you can remember?

A Yes, sir.

Q It wasn't any earlier than March 1943 that Baja was arrested?

A No, in the earliest part of 1943.

Q Was it March of 1943 that he was arrested?

A I can't distinguish, sir, what month was that.

Q Do you remember whether Baja was released by the Kempei Tai in October 1943?

A No, sir.

Q When was he released?

A After two weeks of confinement, sir.

Q And do you remember the month in which he was released? Was it in April of 1943?

A I can't exactly remember, sir.

Q Was he alone when he was brought to the Kempei Tai headquarters?

A He was with Roberto Ramos and Antipas Baliguas.

Q Those were the three arrested at the same time?

A There were more than three who were arrested at the same time, but I don't know the others.

Q Could you see into the cell from where you worked in the kitchen?

A Yes, sir, because from the kitchen we passed by right in front of the cell to the dining room.

Q But from the kitchen a person could not look into the cell where the prisoners were confined, is that true?

A They cannot be seen, sir.

Q And also from the kitchen you cannot see into the investigation room?

A I can only see the prisoners there because I also did the delivering of their food most of the time.

Q But from the kitchen you cannot see what goes on in the investigation room, is that true?

A Unless I am going upstairs.

Q Unless you are right in the investigation room?

A Yes, sir.

Q Then actually you did not see anybody strike Baja while he was in the investigation room being investigated?

A I have not seen the actual beating, but the result after the investigation. He had bruises when he was brought back to the cell.

Q And you did not see anybody strike Espino while he was being investigated?

A Espino?

Q Espino.

A I have seen him upstairs when he was called by Yamanoue the investigator.

Q Do you know Felix Espino?

A He is not Felix, it is Gabriel Espino.

Q Gabriel Espino?

A Yes, Gabriel Espino.

Q While you were in the investigation room with Gabriel Espino all that occurred was that you gave him two glasses of milk, is that true? He was not beaten?

A Sir.

Q He wasn't struck by any one.

A He was groggy, sir.

Q How could you tell he was groggy? What do you mean by "groggy"?

A The result of the fatal beatings done by Yamanoue he became unconscious and very weak.

Q Was he unconscious when you came into the room?

A Sure because he can't even see me. His eyes were closely tight.

Q Did you talk to him at that time?

A He talked to me and said, "Please pour water on my back, I can't see," with his fingers touching the two eyes of his.

Q Where there any marks on his face?

A There were fatal bruises on most of his body.

Q Did you see any bruises on his chest?

A Yes, sir, all around his body.

Q Did you see any bruises on his buttocks?

A I have seen them, sir.

Q In fact you inspected him all over and found many bruises, is that right?

A Yes, sir, I have seen the bruises.

Q Now did any one in Bacoled tell you that if you will testify that you saw many bruises that that will hurt Kawamori?

A No, sir, I am testifying -- I am declaring that, sir, because I have really seen that, sir.

Q Isn't it true that your observation of these people being taken from the investigation room to the cell was only for a moment?

A A short instant. Most of the time, inasmuch as I am in the kitchen any prisoners taken out and brought to the investigation room upstairs, and from the investigation room back to the kitchen could be readily seen, sir, because our kitchen was an open kitchen with no walls.

Q But you could only see them for a half a minute, during the time it takes to go from the investigation room back to the cell?

A A short moment.

Q For a short moment only?

A For a short moment, sir, when they are taken upstairs back to the cell.

Q And you did not go to the cell to make an examination of their bruises of the prisoners?

A I did not go there. I go there only when it comes to serving the meals, sir.

Q Couldn't it have been possible that these prisoners were brought to the Kempei Tai headquarters in a bruised condition?

A I beg your pardon.

Q Couldn't it have been possible that these prisoners had been bruised before they came to the headquarters, while they were being arrested or while they were investigated by troops on the outside?

A No, sir, there were no bruises before they were investigated. The bruises only were received by the prisoners just after the investigation.

Q What makes you so sure of that?

A I am very much sure of that, sir, because it is very clear when they go upstairs and they come back downstairs to the cell.

Q Actually you don't know -- you can't recall the incidents very clearly, as to date, do you as to month and year in which they happened?

A The correct time, sir, or months I can't really specify, sir.

MR. SIMON: No further question, sir.

MR. BLACK: I have a few questions on redirect examination.

REDIRECT EXAMINATION

BY MR. BLACK:

Q You testified before about Kajiyama. Who was Kajiyama?

A He was one of the Japanese interpreters of the Japanese Military Police.

Q Was Sergeant Takeshita a member of the Bacolod Kempei Tai?

A No, sir, he is not a member of the Japanese Military Police.

Q You testified before and used the words "sentences of Philippine suspects." What do you mean by "sentences?" Is that the word you used?

A Yes, sir.

Q Will you tell the Commission what you meant by that?

A I meant the suspects who were working with the underground movements as the guerrilla resistance during the Japanese occupation.

MR. BLACK: I understand the answer is not responsive. I will try and clear it up.

Q Do you know what the word "sentence" means? Do you understand the meaning of the word "sentence" that you used?

A Sentence -- I beg your pardon.

MR. BLACK: With the permission of the Court I should like to have the interpreter ask him this question.

COLONEL CHASE: There seems to be some confusion as to whether he understands exactly.

MR. BLACK: I am not able to get across to him what I am trying to find out from him.

Q (To Interpreter Dianala Jo) Would you be good enough to ask him this: During your cross-examination you testified that Filipino suspects were given sentences. What do you mean by that, and do you understand the meaning of the word "sentences?"

A (Through Interpreter Dianala Jo) What I mean by sentences is after the investigation there is a determination of how long will they be released.

Q You do not know whether any of the Filipino suspects about whom you testified were given a trial?

A They were not given a trial like what we have known. They were merely investigated.

Q That is enough. During that time that you were there and between October 1942 and July 1944 do you know whether

any Filipinos who were imprisoned there were given a trial?

A There was none, sir, none only mere investigation.

Q The results of the beatings of Baja, Ramos, Espino and the others that you testified about, were they subsequent to their imprisonment at the Kempei Tai? Do you understand the question?

A Yes.

Q (continuing) Or did some of them come with the bruises already on them?

A When they were arrested they had no bruises yet. They received only the bruises just after they were investigated by the Japanese Military Police.

Q Who was Sergeant Naka?

A Naka was one of the Japanese Military Police officers.

Q Was he an investigator?

A Yes, sir, he arrived there in the early part of 1943.

Q From where you were in the kitchen or any other place in the Private Hospital did you ever hear any outcries of Filipinos from the investigation room or any other place?

A I have heard only the cries of pain upstairs in the investigation rooms.

Q What do you mean you heard cries of pain?

A I mean that those prisoners who were fatally beaten were howling so that their voices could be heard downstairs.

Q How far away was Lieutenant Kawamori's office from the investigation room approximately, if you can indicate?

A About more or less twenty meters from the investigation room to his office.

Q How far is twenty meters? Can you indicate?

A (indicating) To I think almost the middle of the road, sir.

Q From here to the middle of the road?

A Yes, sir.

MR. BLACK: Would you say that is about forty feet, Mr. Simon?

MR. SIMON: I would say more than that. I would say -- is that the road he is referring to (indicating)?

A No, I mean the middle of the road here, sir.

MR. SIMON: (Indicating) Fifty feet.

MR. BLACK: All right.

Q And was his office on the same floor?

A Yes, sir, on the same floor.

Q Lieutenant Kawamori never did you any harm personally, is that right?

A Sir.

Q Lieutenant Kawamori never harmed you in any way? Answer yes or no.

A No, sir, he never harmed me.

MR. BLACK: No further questions.

RECROSS-EXAMINATION

MR. SIMON: Defense had a few questions we failed to ask in our cross-examination.

BY MR. SIMON:

Q Was Felix Ramos a guerrilla?

A No, sir, it was only a mere suspect.

Q Was he a member of the guerrilla underground movement in Bacolod?

A I am not really sure, sir.

MR. BLACK: I ask you now, for the sake of the record, are you talking about Roberto Ramos?

MR. SIMON: We are talking about Roberto Ramos.

Q Was Epifanio Baja a member of the underground movement in Bacolod?

A I don't know, sir.

Q Was Gabriel Espino a member of the guerrilla movement in Bacolod?

A I am not really sure, sir, of that.

Q Do you know whether any of these three men were guerrillas or not?

A I have not heard, sir.

MR. SIMON: No further questions.

MR. BLACK: If it please the Commission, I would like to ask one more question. It may have some relevancy or not.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Mr. Quillinguin will you tell the Commission how you came to work for the Bacolod Kempei Tai as a cook?

A As a US JFE suspect I was arrested by the Japanese Military Police on May 21, 1942, in Bacolod City.

Q **Continue.**

A And after one week of staying under the Japanese Military Police I was forced to work as their cook, and because they will impose punishment on me I worked ~~under~~ their care.

Q Did you ever try to leave or quit?

A I quit last August 1 to October 31 of 1944 because I was

deprived already of my monthly ration of rice.

Q And weren't you afraid then? Do you understand my question?

A Sir.

MR. BLACK: I will withdraw the question.

COLONEL CHASE: Any further questions by the defense?

RECROSS-EXAMINATION

BY MR. SIMON:

Q Did they have a guard on you during the time you worked for them so that you could not run away?

A No, sir. I was afraid to run around.

Q And you didn't quit working for them until the Americans came, is that right?

A I was missing for three months but November 1st I was again forced by Lieutenant Kawamori to work again in the Japanese Military Police.

Q Did you wear a Japanese uniform while you worked for them?

A No, sir, my civilian clothes.

Q Are you under charges now as a collaborator?

A No, sir.

MR. SIMON: No further questions, sir.

MR. BLACK: Just one more question if it please the Commission.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Are you married?

A Yes, sir, I am married.

Q Do you have any children?

A Yes, sir.

Q At the time you worked for the Kempei Tei at Bacolod, did you have a wife and children?

A Yes, sir.

Q And you lived across the street from the Hospital?

A Yes, sir.

MR. BLACK: That is all.

COLONEL CHASE: It is now 11:30. Will there be any questions by the Commission?

MR. BLACK: If it please the Commission, this witness will be available this afternoon.

COLONEL CHASE: The Commission will recess until 1300 this afternoon, and please have this witness available at that time.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Sir, may the record show that when the Commission reconvened all the members of the Commission, the prosecution, defense counsel and the accused with his personal interpreter were present.

The witness is reminded that he is still under oath.

COLONEL CHASE: Any further questions by the prosecution or defense?

MR. SIMON: The defense has no further questions.

MR. BLACK: No questions by the prosecution.

COLONEL CHASE: Any questions by the Commission?

JUSTINIANO QUILLINGUIN

a witness for the prosecution, having been previously duly sworn, testified further as follows:

EXAMINATION BY THE COMMISSION

BY COLONEL GUHL:

Q Can you distinguish the different insignia of the different ranks of the Japanese Army officers?

A Yes, sir.

Q I have here a chart showing the insignia of rank of Japanese Army officers.

A Not all rank, sir.

Q I will ask you to look at it and point out to me the insignia that you saw worn by the accused.

A When he arrived in Bacolod he wore three bars with one

star. When he departed from Bacolod he had this (indicating) three bars with two stars.

Q Do you know what the insignia consisting of the three bars on the red background and the two stars mean?

A It means first lieutenant, sir.

Q And the three bars and the one star?

A Second lieutenant.

Q With the stairs leading from the ground floor to the first floor of this cell building and investigation building that you were talking about, where are the stairs that led from the ground floor to the first floor?

A The main stairs of the building?

Q The pair of stairs that you have been talking about. You said the cell room was on the ground floor and the investigation room on the second floor. There were a pair of stairs somewhere that you saw people going up and down, where were they?

A On the left side, sir, going to the dining room.

Q Were they on the outside of the building or on the inside of the building?

A It is right outside, sir, connected to the wall.

Q Where were you standing when Baliguas, Baja, and Ramos were taken to the investigation room?

A In the kitchen.

Q You saw them being taken up this stairway?

A Yes, sir.

Q Describe their appearance.

A Baja, when he was taken to the investigation room, had no bruises yet but after the investigation he returned back

with bruises.

Q What I mean is how did they look? How were they dressed or anything else that you saw?

A They were dressed with an undershirt only, sir, only underwear.

Q Was the movement of their limbs in any way restricted?

A Their movements, sir?

Q How were their hands or arms?

A Their arms, sir, were having bruises on both arms.

Q Were their hands tied behind their backs?

A No, sir.

Q After they were taken to this investigating room could you see what was going on there?

A I have seen when I was requested to serve tea to the investigator and the interpreter, I have seen that the prisoners whom they were investigating were beaten.

Q I am referring now to the incident or incidents when you saw Baja, Baliguas, and Ramos taken upstairs and investigated. You saw them being taken up there?

A Yes, sir.

Q Did you see what was going on in that room after they were taken in there from where you were?

A They were investigated, sir.

Q Did you see them investigated?

A Yes, sir, because they could not be seen -- but through their voice, their big voice, they could be heard downstairs.

Q You did not see them actually being investigated? You heard something going on up there, is that correct?

A I have seen, sir, when I served them tea.

Q Did you have occasion to serve tea at the time that these three men were being investigated?

A Sir?

Q Did you have occasion to serve tea at the time these three men were being investigated?

A I beg your pardon, sir?

Q We have these three men up in this investigating room. Did you have occasion to serve tea at that time?

A Yes, sir.

Q Then, you were in the room when those three men were being investigated?

A They were not investigated, sir, at the same time.

Q Did you see any one of the three being investigated?

A Yes, sir.

Q Which one?

A Baja, sir, after the investigation.

Q Were you there during the entire investigation?

A After I delivered the tea I went down.

Q After the investigation were these men brought down the same stairway?

A Yes, sir, the same stairway.

Q Did they come down under their own power or did they have to be assisted?

A They just walked.

Q Did they walk down by themselves?

A They walked down by themselves.

Q Who is this Yamanoue that you mentioned?

A He was one of the investigators of the Japanese military police.

Q Do you know what his connection was with the accused?

A He was under Lieutenant Kawamori.

Q Was the accused present at any of the investigations that you witnessed?

A Yes, sir.

Q What part did he take in these investigations?

A I beg your pardon, sir?

Q What part did he take in these investigations?

A As guerrilla suspect, sir, in connection with the underground movements of the guerrilla resistance.

COLONEL GUHL: Will the interpreter ask that question to the witness?

MR. BLACK: Excuse me, sir, so there will be no question in the record, who is "he"?

COLONEL GUHL: We have been talking about the accused.

MR. SIMON: Sir, when the interpreter puts this question now, the record will not indicate who the "he" is.

COLONEL CHASE: I suggest that you restate the question.

Q What part did the accused take in these investigations?

MR. SIMON: Defense would request that it be confined to an investigation of whom, which, when, and where so that it will not be too general a question, not covered by the Charge and Specifications.

COLONEL GUHL: I will reword the question.

Q What part did the accused take during the investigations of Baja, Baliguas, and Ramos?

(Translated to the witness by Interpreter Dianala Jo.)

THE WITNESS: (Through Interpreter Dianala Jo) He

has not participated in the investigation, but inasmuch as Yamanoue, the interpreter, is under him, he is liable.

Q Do you mean that the accused, while present during these investigations, did nothing or said nothing; he was merely there physically? He either was standing or sitting there saying nothing or doing nothing?

Lieutenant Kawamori was not present in the course of the investigation, only the investigators.

Q Do you speak or understand Japanese?

A No, sir.

Q Do you know Jose Garcia?

A I don't know him, sir.

Q Then you don't know whether he was among those investigated during the month of January, 1943?

A I don't know.

BY CAPTAIN LACEY:

Q When Baja and the other prisoners were being investigated did you not say in your testimony you heard them scream at the time they were being investigated?

A I mean those other prisoners.

Q Just which prisoners were you referring to when you heard someone scream in the investigating room?

A That prisoner who died of beatings, sir, who was fatally beaten by Naka.

Q What was his name?

A I am not familiarized with him, sir.

Q Was the accused there at the time you heard these screams or just where was he?

A He must be in his office.

Q Did you see him around there?

A Yes, sir, because most of the time he was in his office.

Q With relation to the time you heard these screams, when had you last seen the accused? How long had it been since you had seen him there? You say he possibly was in his office, is that right?

A Yes.

Q When had you last seen him before you heard the screams?

A That afternoon, sir, he was there in the office.

Q He was there at the time?

A Yes.

MR. SIMON: Sir, "I believe he was there at the time" doesn't mean anything to this witness. He is talking about an afternoon without specifically stating when he heard the screams so I think the answer is meaningless.

Q Did you understand me when I asked, "Was the accused there at the same time you heard the screams from the investigating room?"

A I am not very much sure of that, sir.

Q You didn't actually see him at the time?

A I didn't see him actually.

COLONEL CHASE: I would like to clear up one point.

BY COLONEL CHASE:

Q Did you at any time ever see this defendant, Shuji Kawamori, in the room in which any of the people were being investigated that you testified about this morning?

A Yes, sir.

Q Do you recall who was being investigated when you saw him in the room?

A Do you mean, sir, in his office?

Q In the room where the investigation was going on did you ever see Shuji Kawamori?

A No, sir, I have not seen him, sir.

Q You never saw him in the room where the investigation was going on?

A I have never seen him in the investigation room during the course of investigation.

Q Do you know for sure that he was in his office or nearby to the room where the investigations were being held while any of these people were being investigated?

A He was in his office?

Q But never in the investigation room?

A Never.

COLONEL CHASE: Any questions by the defense?

RECROSS-EXAMINATION

BY MR. SIMON:

Q Were you able to see Mr. Kawamori's office from where you worked in the kitchen?

A No, sir.

Q How do you know whether he was in his office or not at the time the investigations themselves were going on?

A I know that, sir, because most of the time he is in the office of the Japanese military police.

Q Then, isn't it true your answer is based on your conclusion or your thought that he should be around his office because you ordinarily figured that he should be there?

A Yes, sir.

Q Did you see Baja being investigated with your own eyes?

A I have seen him once, sir.

Q Were you in the room where he was being investigated?

A I went upstairs to serve tea.

Q Who was in that room when you went there to serve the tea?

A He was Mr. Baja with Sasaki and Yamanoue as the interpreter.

Q Are you sure it was Yamanoue, the interpreter, that was there?

A Yes, sir.

Q What is Yamanoue's full name?

A I don't know it, sir.

Q Do you know an interpreter by the name of Uehara?

A Yes, sir.

Q He was not present at that time, is that right?

A He was not present, sir.

Q What time of the day did you go up to bring that tea to the room?

A About ten o'clock in the morning, sir.

Q Was Baja and Sasaki and Yamanoue the only three persons in the investigation room at that time?

A They were three only, sir.

MR. SIMON: Sir, these questions should have properly been asked before but I have had an opportunity to study these affidavits.

COLONEL CHASE: Proceed.

Q Did you know Cata-al?

A I don't know him.

Q Did you know Felipe Lumacang?

A I can't remember him.

Q Do you remember whether Felipe Lumacang was brought to the Kempei Tai in April, 1944?

A I am not sure of it, sir.

COLONEL CHASE: I don't want to interfere with the defense counsel, but just what connections do these individuals have with the Charge and Specifications?

MR. SIMON: Lumacang is a tentative witness and his testimony will probably be based when he was in this Kempei Tai cell or stockade, and it is merely anticipating through this witness. I have no further questions along that line if he doesn't know that particular witness.

Q From your kitchen did you observe every time that the Kempei Tai men took a prisoner from the cell to the investigation room during the period from October, 1942, to July, 1944?

A I beg your pardon, sir?

Q From the period October, 1942, to July, 1944, you observed every prisoner that was taken from the cell to the investigation room and returned from the investigation room to the cell?

A Yes, sir.

Q And on every occasion every prisoner was well and unbruised at the time he was taken from the cell to the investigation room, is that true?

A Yes, sir.

Q You are sure of that?

A Yes, sir.

MR. SIMON: No further questions, sir.

MR. BLACK: No questions by the prosecution.

COLONEL CHASE: Any further questions by the Commission? (No response.)

(Witness excused.)

COLONEL CHASE: While we are waiting for the next witness we will take a very brief recess of about five minutes.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Before calling the next witness, the prosecution submits for incorporation into the records of these proceedings the following document: Headquarters, United States Army Forces, Western Pacific, Special Orders No. 254, APO 707, 4 November 1946, paragraph 3, which reads:

"RESTRICTED

"HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders)
No. 254)

"APO 707
4 November 1946

"3. So much par 12, SO 243, cs, this hq (apmt Mil Commission-KAWAMORI), as amended and as reads, 'MR ROBERT L WARD, CS, Chief Defense Counsel, and MR JOHN J SCHAUER, CS, Asst. Defense Counsel,' is further amended to read, 'MR KENNETH K SIMON, CS, Chief Defense Counsel, and MR OTTO SCHULTZ, CS, Asst. Defense Counsel.'

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"OFFICIAL

/s/ "Bruton B. Schardt
/t/ BRUTON B. SCHARDT
1st Lt. CAC
Actg Asst Adj Gen

"J J GERHARDT
Colonel, AGD
Adjutant General

"RESTRICTED"

COLONEL CHASE: The document will be incorporated into the record.

MR. BLACK: The prosecution will call as its next witness Roberto Ramos.

ROBERTO FELIX RAMOS

A witness for the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your full name?

A Roberto Felix Ramos Robles.

Q Are you usually known by the name of Roberto Felix Ramos?

A Yes, sir.

Q Do you know the man who was the Filipino cook at the Bacolod Kempei Tai?

A Yes, sir.

Q Do you know his name?

A Yes, sir.

Q What is his name?

A Justiniano Quilinguin.

Q What is your nationality?

A Filipino.

Q What is your address?

A In Manila or in Bacolod?

Q In Bacolod?

A Number 55, Smith Street, Bacolod City, Negros Occidental.

Q How long have you lived in Bacolod?

A Since my birth.

Q Until when?

A Until the last time I left for Manila.

Q When was that?

A June 9th.

Q What year?

A 1946.

Q During the Japanese occupation of Bacolod, did you live in Bacolod?

A I lived in Bacolod.

Q Were you ever arrested by the Japanese military police in Bacolod?

A Yes, sir, I was arrested.

Q When was the first time you were arrested?

A It was in January 26, 1943.

Q Tell the Commission the circumstances under which you were arrested and by whom?

A In the early morning of January 26, at about three o'clock, I was asleep in my house. I was sick and had taken some medicine during the night, and around three o'clock the Japanese were already surrounding my house. We had two houses. Some of the soldiers of the Japanese Kempei Tai and Japanese Imperial Army went up and looked for me. When I looked out of the window I saw the Japanese soldiers and Filipino constabulary soldiers and the Japanese Army soldiers surrounding our two houses. All of the soldiers were equipped with rifles, fixed bayonets, and some of the officers had their sabers and pistols. One of the soldiers merely struck me with his bayonet to admonish me to get up, because I was going down the stairs when I heard the Japanese coming to the house. Later they

went throughout to make a thorough search of everything, I don't know what they were searching for. Sometimes in the cellar I could see that officers used to make a report to another officer of the Japanese Kempei Tai, and the other officer will also sometimes give instructions as to what to do. The officers and soldiers used to go back and forth and make the report, and then search again, and vice versa. Everything was searched and later I was tied with rope, with both hands to my back and brought to the Kempei Tai.

Q Just a moment. All this took place inside your house?

A Yes, sir.

Q Now who were the Japanese officers and soldiers that came to your house, do you know?

A Yes, sir.

Q Who were they?

A One of them was Nakamura by name. They called him Nakamura, and another is Sasaki, and there were three other officers and the commanding officer, Kawamori.

Q The man you say was the commanding officer, Kawamori, do you see him in this room?

A He is here. He is right there (indicating).

Q Will you walk over and point him out?

A This is the man here.

MR. BLACK: May the record show that the witness pointed out the accused.

Q Who else was arrested with you at the same time?

A We were altogether seventeen, but there were four in my house.

Q Who were the four from your house?

A Jose Garcia, my nephew, Anatolio Corrienco, Freddy Bahayupan.

Q Will you spell that last name again, please?

A B-A-H-A-Y-U-P-A-N, and me.

Q Weren't there others whose names you don't know?

A Yes, of course, there were seventeen in all, but I don't know the names of the others.

Q And where were you taken?

A To the garrison of the Japanese Kempei Tai in Bacolod City.

Q And where was the garrison of the Kempei Tai?

A At the Bacolod Private Hospital on Smith Street.

Q And who accompanied you and the others to the Bacolod Private Hospital? What Japanese personnel I mean?

A The Japanese soldiers and officers were accompanying me, guarding me.

Q Was Lieutenant Kawamori one of them?

A He was one of them.

Q And were you brought to the hospital?

A I was brought there.

Q What happened there?

A We were put in jail and the following day after lunch I was brought upstairs on the second floor for questioning and torture.

Q Who questioned you?

A Nakamura.

Q Who else was present?

A The interpreter, Uehara.

Q What happened during the questioning?

A They beat me throughout all my body.

Q Who beat you?

A Nakamura.

Q Where did he beat you? What part of your body?

A I don't know.

Q You don't know where he struck you?

A He beat me throughout the body, -- throughout my body.

Q What parts of your body?

A On the head; part of my neck; in front of my neck; my back, legs, both legs.

Q What did he beat you with?

A He beat me with a cane of hard wood.

Q About how long was it?

A Longer than half a meter.

Q Indicate this with your hands.

A About that long (indicating).

MR. BLACK: About two and one-half feet.

Q How thick was it?

A The other end was about one inch thick in diameter and this end is about a half an inch in diameter.

Q How long did this investigation continue?

A It continued for two days.

Q I mean the first time you were investigated that you have just described. How long did that particular investigation last?

A For one afternoon from one o'clock until seven o'clock in the evening.

Q And for how long were you beaten?

A Throughout that time.

Q About how many times would you say, if you can, were you struck?

A Many times.

Q Ten, twenty, thirty, fifty, or one hundred?

A I cannot tell because after every question then it was all ringing my body.

Q What happened to you at the end of that investigation?

A After the investigation and torture and beating, they brought me down where I was confined and separated me from all my companions.

Q Were you placed in a cell all by yourself?

A I was placed in a cell with other guerrilla people.

Q What do you mean you were placed in a cell with other guerrilla people?

A Because there were two rooms, I was separated from all my companions. They put me in the other room.

Q Who else was in the room?

A I don't know that.

Q Why did you say they were guerrillas, if you don't know who they were?

A That is what I don't know, but they were telling me.

Q How many other people were in that room?

A I cannot count them.

Q Five, ten, or two?

A There were plenty.

Q Did you know any of those people?

A I don't know those people.

Q Did anyone tell you who they were?

A No.

Q Were they Filipinos?

A Filipinos.

Q What else happened to you while you were at the Bacolod Kempei Tai?

A The following afternoon and second day in my compartment, I was brought again for another investigation and beating.

Q Were you investigated again?

A Another investigation proceeded.

Q Who investigated you?

A Nakamura again.

Q Who beat you?

A Nakamura also.

Q What did he beat you with this time?

A Same cane. Sometimes he threatened me with his gun.

Q With what?

A He threatened me with his gun.

Q What did he do?

A He did this to me (indicating).

Q He pointed the gun at you?

A He pointed it at me.

Q Did he say anything when he pointed the gun at you?

A He was telling something, what the interpreter was telling me.

Q What was the interpreter telling you? You don't understand Japanese, do you?

A No.

Q What was the interpreter telling you, in substance, if you don't remember the exact words? What was he questioning you about?

A About something. He was telling me about the gun. He said I have not hid my gun.

Q What else did they question you about?

A About my companions.

Q What about your companions?

A Forcing me to answer that these people are members of the organization.

Q What do you mean "forcing you to answer that they were your members"?

A Because they said that I was against the military position of the Japanese Imperial Army.

Q Who said that?

A I beg your pardon?

Q Who is this that said that?

A The Japanese military. The Japanese Imperial Army of the Kempei Tai.

Q Who said you were against the Japanese Imperial Army?

A Nakamura.

Q What else did he say?

A I cannot remember any more, but he continued beating me.

Q You said a moment ago that he questioned you about answering the others as your members, is that what you said?

A Yes, sir.

Q Will you tell the Commission what you mean by that?

A Because they arrested seventeen of us and the military police presumed that I was the leader of that organization.

Q What kind of an organization?

A I don't know. I don't know of any organization.

Q What did they accuse you of?

A I don't know.

Q Well you said about being the leader of an organization?

A Yes, sir.

Q What do you mean?

A They assumed I was leader of an organization to fight against the Imperial Japanese Army.

Q They questioned you about that?

A About that, yes, sir.

Q Were you a leader of an organization that was fighting the Japanese Army?

A No; no, it is not so.

Q Were you a member of any organization?

A No, I was not.

Q Were you ever investigated again?

A No more, but in case there were any persons arrested and brought in the cell, they sometimes let that person identify me.

Q Yes, go on.

A But, I don't know what was the result of that investigation because they did not explain it to me.

Q How long were you kept at the Bacolod Kempai Tai?

A Ninety-four days.

Q And you were then released?

A I was released on the 94th day.

Q Did you have any marks or scars as a result of the beatings you received?

A Of course I had during my confinement and after my release, I have them yet.

Q Where did you have scars or marks?
A At the back of my body -- the back of my leg.
Q Do you have any marks or scars now?
A Nothing of the scars.
Q How long did those marks or scars last after you were released?
A For five months.
Q Do you know what the official position was of Lieutenant Kawamori in connection with the Bacolod Kempei Tai at the time you were arrested and imprisoned there?
A He was said to be the commanding officer of the Japanese military -- of the Imperial Japanese Army in Bacolod City.
Q You said that "he was said to be". What do you mean "he was said to be"?
A While I was arrested, I know he was because people talking said that he was the commanding officer.
Q People where, in Bacolod?
A Of the military police in Bacolod City. Then when I was in jail I know right that he was the commanding officer of the Japanese -- of the military police of the Japanese Imperial Army in Bacolod City.
Q Did you ever see him before you were arrested?
A I saw him there because I used to pass the building.
Q Did you ever see him after you were released?
A I saw him then also.
Q During the times you were questioned and beaten, was Lieutenant Kawamori ever present?
A Prior to my second day of questioning, Lieutenant Kawamori and Yamane and Sasaki, -- I was brought before them.

Q Where was this?

A Outside the cell.

Q Of the Kempei Tai headquarters?

A At the balcony of the Kempei Tai headquarters in the same building.

Q Among those arrested, could you hear any of them beaten?

A There were some.

Q Who?

A My nephew, Jose Garcia.

Q Did you see him beaten?

A I did not see him beaten, but I saw the marks on his hands and part of his body.

Q What kind of marks?

A Bruises and some wounds.

Q Could you see any blood?

A In some of the small wounds I saw blood dripping.

Q Wounds where?

A In the arm here (indicating).

Q When you saw him how was he dressed?

A Garcia you mean?

Q Yes. The dress of the man. What was he wearing when you saw him after he was investigated?

A I saw him after the investigation with a polo shirt -- sport shirt.

Q And did he talk to you?

A No, but I passed by him.

Q Did you look at him?

A I took a short look.

Q What did he look like?

A He was worried.

Q He was worried?

A He was worried and he was so depressed because I am sure because he was beaten. I don't know why he was beaten. He was crying.

Q What was he crying about?

A About the beating.

Q How do you know he was beaten?

A Because of the movement. He showed me his arm and body. Then I saw the bruises and wounds. He was crying for that. Then I just moved my head, I was sorry.

Q Is Jose Garcia alive now?

A He died.

Q He died subsequent to his release, is that right?

A After his release, not directly after the release but later.

Q Some time later?

A Some time later.

Q Do you know about how long later -- I will withdraw that question. Do you know Felipe Lumacang?

A I know him.

Q Do you know Epifanio Baja?

A I know him.

Q Do you know Antipas Baliguas?

A I know him.

Q Who were all these people?

A They were my neighbors, -- Felipe, Baja, and Baliguas.

Q Were these people also arrested?

A Epifanio Baja and Antipas Baliguas.

Q You just told us of the investigation and beating of Garcia. Did you see or know whether Lumacang was beaten?

A Lumacang was not together with us.

Q Was Epifanio Baja together with you?

A He was.

Q Was he investigated?

A He was also investigated.

Q Was he beaten?

A That is what I don't know.

Q How about Antipas Baliguas?

A He was investigated also.

Q Was he beaten?

A I don't know.

Q Were you in the same cell with them all or in a different cell?

A A different cell. After my investigation I was placed in a different cell.

Q The seventeen others who were arrested with you and imprisoned, were any of those beaten?

A Yes, sir, Freddy Bahayupan.

Q How do you know that he was beaten?

A Because later he told me, after his release.

Q What do you mean "later"?

A After the release.

Q After your release he told you? What did he tell you?

A He said he was also beaten. He was held by the neck here like this (indicating).

Q Were you ever given a trial by the Kempei Tai?

A No.

Q How long were you kept there?

A Ninety-four days.

Q How did you feel after you were beaten?

A Of course I felt very bad because of the pain and the way they beat me. I don't know nothing. I don't know why they are beating me.

MR. BLACK: Defense may cross-examine.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. SIMON: The witness is reminded he is still under oath.

CROSS-EXAMINATION

BY MR. SIMON:

Q At the time you were arrested were there about a hundred men, Japanese soldiers, P.C. and Kempeitai in the group that did the arresting?

A I know there are more than one hundred.

COLONEL CHASE: For the information of the Commission what is a P.C.?

MR. SIMON: Philippine Constabulary.

Q Was the Philippine Constabulary commonly known as the P. C.?

A They are the Japanese Army, rather they call it the Japanese Philippine Constabulary.

Q Do you know who commanded the Philippine Constabulary at that time in Bacolod?

A I forgot because there were other commanding officers.

Q Was the commander of the Philippine Constabulary present at the time you were arrested?

A There was a Constabulary officer but I don't know the name.

Q Didn't he control, direct and supervise the activities of the Philippine Constabulary that were present at the time?

A The Japanese, the High Command of the Japanese Military Police, was the one giving instructions.

Q Was that Colonel Yamaguchi?

A Kawamori.

Q Did you see Colonel Yamaguchi present with the troops?

A Yamaguchi was not there.

Q What was the name of the other officers who directed the activities of the Japanese Army members?

A Do you mean the Commanding Officer during that raid?

Q Yes.

A I know it was Kawamori.

Q How did you know that?

A Because he was the highest officer of the army that raided the houses and he was standing in front of the cell with his raincoat, his saber and he was giving instructions to officers of the Japanese Army going to him and then some others.

Q Did you see some Japanese officers of the Imperial Japanese Army come to Kawamori for instructions?

A I saw it.

Q What was the name of those officers?

A Nakamura, Sasaki, and there were three other officers.

Q Was Captain Takahashi there?

A I don't know Takahashi.

Q Do you know a Lieutenant Nakajima?

A I don't know if there was a Nakajima there but there were three other officers.

Q Were those officers stationed at the Bacolod Hospital?

A I know some were stationed at the hospital.

Q Were some stationed at the Bacolod High School?

A I don't know but there were plenty.

A Kawamori.

Q Did you see Colonel Yamaguchi present with the troops?

A Yamaguchi was not there.

Q What was the name of the other officers who directed the activities of the Japanese Army members?

A Do you mean the Commanding Officer during that raid?

Q Yes.

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Q How did you know that?

A Because he was the highest officer of the army that raided the houses and he was standing in front of the cell with his raincoat, his saber and he was giving instructions to officers of the Japanese Army going to him and then some others.

Q Did you see some Japanese officers of the Imperial Japanese Army come to Kawamori for instructions?

A I saw it.

Q What was the name of those officers?

A Nakamura, Sasaki, and there were three other officers.

Q Was Captain Takahashi there?

A I don't know Takahashi.

Q Do you know a Lieutenant Nakajima?

A I don't know if there was a Nakajima there but there were three other officers.

Q Were those officers stationed at the Bacolod Hospital?

A I know some were stationed at the hospital.

Q Were some stationed at the Bacolod High School?

A I don't know but there were plenty.

Q Was an investigation conducted immediately after you were arrested?

A That was perhaps six hours after and more than six hours after I was brought to the Kempei Tai.

Q Did they question you right after you were arrested?

A No because we arrived at the Kempei Tai.

Q Going back to the date when you were arrested, early in the morning at 0300, as soon as you were arrested at that time were you questioned?

A Not until later, after lunch.

Q Did you see them questioning any of your companions when they were all rounded up?

A I did not see them questioning my companions but I see and I know that they are to be questioned because they were calling them one by one, by name, from the cell and they were brought upstairs to the second floor.

Q Going back to the time when these men were arrested, did they question any of these men on the spot?

MR. BLACK: Twice the witness has answered that question.

COLONEL CHASE: I don't think so. I think he has answered in general with regards to a period of a whole day but not specifically to a period following the arrest which Mr. Simon is trying to bring out.

MR. BLACK: I see.

MR. SIMON: Will the reporter read the question?

(The question was read.)

A They did not investigate directly after the arrest but later.

Q Were any of the men mistreated or struck at the time they were arrested?

A Yes, during the investigation and after the arrest.

Q Right after the arrest did you see any of your companions with marks on their bodies?

A Yes, I saw them.

Q Isn't it true that some of your companions were arrested by members of the Japanese Imperial Army?

A By the Military Police Unit of the Imperial Japanese Army.

Q Did any of the men that conducted these arrests wear any insignia of any kind?

A Yes, of course.

Q What kind of insignia did they wear?

A They wear red background with stripes and stars, some were stripes alone and some were two stars. That is all I have seen.

Q That is the only insignia that those men wore?

A With white bands and red letterings, Kempei.

Q How many men had these arm bands that indicated that they were Kempei?

A All the Japanese soldiers and officers that made the raid.

Q You say there were over a hundred Japanese officers and soldiers that wore those arm bands?

A Including the Constabulary men.

Q Did the Constabulary men also wear arm bands?

A I did not recognize the Constabularies that wore these bands.

Q Were any of the men mistreated or struck at the time they were arrested?

A Yes, during the investigation and after the arrest.

Q Right after the arrest did you see any of your companions with marks on their bodies?

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A All the Japanese soldiers and officers that made the raid.

Q You say there were over a hundred Japanese officers and soldiers that wore those arm bands?

A Including the Constabulary men.

Q Did the Constabulary men also wear arm bands?

A I did not recognize the Constabularies that wore these bands.

Q Would you say it was one hundred men exclusive of the Constabulary that wore these arm bands?

A All the Japanese Army.

Q How many men?

A I had no time to count them. Some were downstairs guarding and some were on the ground floor of my house and some on the second floor and some were in the other house.

Q Weren't there many Japanese that surrounded the entire area in which you and these other seventeen men were living?

A In my two houses only because those other men were living in different houses.

Q Were all these seventeen men brought to one spot before you were taken and brought toward the Headquarters?

A Before I arrived at the Kempai Tai they were already there. Some came later.

Q How many men were taken with you from your house when you were arrested to the Headquarters?

A Four including me.

Q Where did these other thirteen men come from?

A From different houses.

Q In the same neighborhood in which you lived?

A Yes, and some farther.

Q Weren't they all rounded up on this same raid, that same morning?

A Perhaps, but I did not see the raid.

Q What time did you arrive at the Kempai Tai Headquarters?

A Before 8 o'clock in the morning.

Q Were the other thirteen men there at that time?

A I could see some but I didn't exactly count thirteen men.

Q Did they tell you when they were arrested?

A Who?

Q These other thirteen men.

A No, they didn't tell me anything.

Q Did you find out that they were arrested that very morning?

A Sure, because we were all tied up with ropes and we could not talk. We could not move. I only counted them all when we were all inside the cell.

Q Were you together with these thirteen men before you got in the cell?

A We were all together when we got inside the cell and when I get inside I counted and we were seventeen including me.

Q But all you seventeen men were arrested that morning and brought to the Headquarters?

A Yes.

Q Do you know why they arrested you?

A I don't know.

Q Were you the Chief in charge of the Guerrilla forces that were burning down Jap installations in the city of Bacolod?

A No.

Q Did you assist the guerrillas in any way?

A Nothing.

Q Do you like the Japanese?

A I don't think I like them.

Q Do you hate the Japanese?

A Of course, because they are our enemy.

Q And as your enemy do you want to see bad things happen to Kawamori?

MR. BLACK: I don't think that is a proper question. I don't like to object.

COLONEL CHASE: I think you are going too far. There has been nothing in his testimony to indicate that. You are drawing a conclusion on nothing that was said.

Q Did you know Felipe Lamacang?

A I know Felipe Lamacang.

Q Did you see him confined at the Kempai Tai?

A No, they were arrested later.

Q That same year?

A I don't know. He was not together with us.

Q Now, was Baja the first of your group to be taken out and investigated the first day that you were at the headquarters?

A I didn't remember that.

Q Do you recall what time of the day it was when you were taken out to be investigated?

A It was right after my lunch.

Q Was Jose Garcia arrested before you were?

A Before me, yes, sir.

Q Wasn't Baja investigated before Garcia was investigated?

A I don't remember.

Q Do you remember whether the people were taken from the cell one at a time to be investigated?

A One at a time, yes, sir.

Q And after a man was finished being investigated he was returned to the cell?

A Yes, sir.

Q Did you see Garcia when he was returned to the cell?

A After my investigation I went down. They were to return me to my cell and I saw Jose Garcia sitting by the porch side and I saw him there weak. He showed me his bruises at once.

Q Did you walk from the investigation room back to your cell?

A Of course, because we were going down the stairs.

Q What time was it when your investigation was over the first day?

A Around 7 o'clock in the evening.

Q You were the only person in that investigation room from 1 o'clock that afternoon until 7 o'clock that night, is that true?

A We were three: Nakamura and the interpreter.

Q And yourself?

A And myself?

Q No other Filipinos?

A No more.

Q Did you hear any activity going on in an adjoining room while you were being investigated?

A I didn't hear any.

Q Was there another investigation room in the Kempai Tai Headquarters?

A I don't know because I was not showed.

Q What was your occupation during the time that the Japanese were at Bacolod?

A I was in business.

Q Did you buy and sell to the Japanese Army?

A No, nothing.

Q What was your business?

A I was making native cigarettes for sale to the public.

Q And to the Japanese Army?

A I don't know, only to the public. They had their own cigarettes.

Q After you were released by the Kempai Tai did you remain in Bacolod?

A Yes, sir.

Q You remained there until the Americans came?

A Yes, sir.

Q Did you know why Baja was arrested?

A I don't know.

Q Were these men rounded up because they were guerrillas?

A I don't know. I didn't understand at that time why they rounded us up.

Q Were these men guerrillas?

A No.

Q Did they assist the guerrilla forces?

A I don't know.

Q How well did you know these men?

A Baja is my uncle and his house is about 200 yards from mine.

Q You are familiar with Baja's activities?

A No, I'm not familiar with his activities.

Q Did you file a claim for back pay for guerrilla affairs?

A I was not in the guerrillas. Why should I file?

Q What time of day were you taken out for investigation on the second day?

A I beg your pardon?

Q What time were you taken out for investigation on the second day?

A The same afternoon also after lunch.

Q For how long a period of time did they investigate you that second day?

A The second investigation they sent me to my cell around 5 o'clock.

Q Did you walk back to your cell after the second investigation?

A Sure, because it was just the second floor that I had to walk.

Q Were you able to walk from your cell to the investigation room on the second day?

A On the first day I was not so very strong after that investigation because of the heavy beating I received. I was lame; I was somewhat crippled and I had to walk slowly.

Q Did you ever see a doctor?

A No, nothing.

Q You never had any medical treatment for any of your bruises?

A Nothing.

Q You are familiar with Baja's activities?

A No, I'm not familiar with his activities.

Q Did you file a claim for back pay for guerrilla affairs?

A I was not in the guerrillas. Why should I file?

Q What time of day were you taken out for investigation on the second day?

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A Sure, because it was just the second floor that I had to walk.

Q Were you able to walk from your cell to the investigation room on the second day?

A On the first day I was not so very strong after that investigation because of the heavy beating I received. I was lame; I was somewhat crippled and I had to walk slowly.

Q Did you ever see a doctor?

A No, nothing.

Q You never had any medical treatment for any of your bruises?

A Nothing.

Q Who is this Yamaguchi that you were brought before?
You stated on direct examination that you were brought before
Yamaguchi and Kawamori.

A Yamaguchi is the High Command of the Imperial Japanese
Army in Negros Occidental, province of Negros Occidental.

Q Isn't that Masakazu Yamaguchi that you have reference
to?

A They call him Colonel Yamaguchi.

Q Wasn't he in charge of this expedition that captured
these seventeen men?

A I don't know, but I know Kawamori was in charge of that
raid at my house.

Q Did you see Kawamori giving orders to Colonel Yamaguchi?

A Yes, I saw him.

MR. BLACK: I don't think the witness understands
the question.

(To the witness) Did you understand the question?

THE WITNESS: I thought Kawamori was giving instruc-
tions to his men. I didn't mean Yamaguchi.

Q Did you see Kawamori give instructions and orders to
Colonel Yamaguchi?

A No, Yamaguchi was not there during the raid. How could
he give instructions?

Q When did you see Kawamori and Yamaguchi together?

A After my first day they brought me in front of Yamaguchi,
Kawamori, and Sasaki.

Q Did they talk to you at that time?

A Yes, sir.

Q What did they ask you?

A They questioned me but I forgot the topic.

Q Was it about your guerrilla affairs?

A That was the topic perhaps they were talking about, but I was not a guerrilla. I was listening to what they were talking about but there was nothing to affect me.

Q Do you understand Japanese?

A No.

Q How were you able to hear or understand what they were talking about?

A There was an interpreter.

Q This interpreter interpreted to you what conversation was going on between Yamaguchi and Kawamori?

A Not between Yamaguchi and Kawamori, but when they were talking to me the interpreter interpreted to me.

Q Who conducted the questioning through the interpreter? Was it Colonel Yamaguchi?

A Sometimes Yamaguchi and sometimes Kawamori.

Q Did Colonel Yamaguchi leave instructions as to what was to be done with you?

A I don't know. The interpreter did not tell me anything about that.

Q Did the interpreter tell you that Colonel Yamaguchi would keep you in jail until you told the truth?

A They did not tell me anything about that.

Q For how long a time did this questioning last with Yamaguchi and Kawamori?

A I don't remember. It was about a half hour.

Q Was this prior to the time that you were investigated on the second day?

A That was in the afternoon after my first investigation.

Q What time of the afternoon?

A I forgot.

Q Was it at three o'clock, the afternoon of your first investigation?

A I forgot, but it was in the afternoon.

Q Was it before supper that afternoon?

A Before supper.

Q Where did this conversation take place?

A Just outside the cell.

Q When were you returned to your cell that afternoon of your first investigation?

A I beg your pardon?

Q What time were you returned to your cell the afternoon of the first investigation?

A As I told you already, at seven o'clock that evening.

Q What time did you get back to your cell that afternoon?

A On my first investigation?

Q Yes.

A Seven o'clock.

Q Do you consider seven o'clock that evening as the afternoon you talked to Yamaguchi?

A No, Yamaguchi and Kawamori talked to me on the second afternoon before my second investigation, because after Yamaguchi and Kawamori and the other two officers talked to me, then I was returned to my cell and hand-cuffed because the interpreter said there is danger ~~from~~ me, so they brought me for another investigation. That was the second afternoon, the second investigation.

Q Didn't the Japanese find firearms and ammunition in

your houses?

A On the first day they did not find any.

Q Did they find them on the second day?

A The second day.

Q How many firearms and ammunitions did they find in your houses?

A I had three.

Q You had three what?

A Three arms and some ammunitions.

Q What type of arms were they?

A Single type, hand made.

Q Type used by the guerrillas?

A Perhaps, yes.

Q Where did you acquire these weapons?

A Because prior to the arrival of the invasion of the Japanese we were selling arms for what we termed protection of the civilians. There were ten people who were working selling arms in business.

Q Did they also find firearms at the time they arrested your companions?

A Nothing.

Q Did Colonel Yamaguchi question you about your ownership of these firearms?

A Nothing.

Q Did the Kempei Tai question you about these firearms?

A Yes.

Q Did you explain to them why you had firearms?

A Sure.

Q What was your explanation?

A I was selling them.

Q Did the Japanese permit the civilians to carry firearms or sell them at that time?

A I did not carry them or sell them during the Japanese time. I just kept them after the invasion of the Japanese Army.

Q Did Baja have weapons, too, at his house?

A I do not know.

Q Didn't the Japanese issue a proclamation to turn over all firearms to the Japanese authorities when they entered Bacolod?

A Perhaps, I was not quite sure.

Q In fact, didn't you know that you were not supposed to have any firearms?

A I was about to surrender those arms.

Q In other words, you were about ready to turn them into the Japanese just before they arrested you, is that correct?

A I beg your pardon?

Q You were ready to turn those arms in just before they arrested you?

A Before they arrested me?

Q Yes?

A I cannot understand the whole thing.

Q You stated a moment ago that you were ready to turn those arms in?

A Yes, sir.

Q When were you going to turn those arms in?

A I was just thinking to surrender those arms, but I was looking for a day to surrender them.

Q Who did you propose to surrender them to? Where were you going to turn them in?

A As soon as I had fully known the facts about the surrender, then I would have surrendered them.

Q But you did not report to the Japanese when you were arrested that you had firearms?

A No.

Q And they learned that you had firearms through some of your companions and not through you?

A What was that?

Q They learned this but not through you -- not from you?

A Yes, sir.

Q Did you ever hear of the Bolo Battalion?

A No.

Q Was there a Bolo Battalion at Bacolod?

A I don't know.

Q Did you ever hear of Sergeant Takeshita?

A I have heard about him, but I have not seen him personally nor known of him.

Q Were you able to observe from your cell where you were held after the first investigation into the cell in which Baja was confined?

A I beg your pardon?

Q Were you able to look from your cell into the cell in which Baja was confined?

A No.

Q Were you able to look from your cell into the kitchen where Quillinguin worked?

A I was able to look at lunchtime because we go out from the door to the toilet; the kitchen can be seen directly.

Q But when you were in the cell, can you see the kitchen?

A We can see the kitchen through the iron railing.

MR. SIMON: No further questions, sir.

MR. BLACK: The prosecution has a few redirect questions.

REDIRECT EXAMINATION

BY MR. BLACK:

Q You testified on cross-examination that during the raid and arrest there were other Japanese officers present?

A Yes, sir.

Q Among them was Nakamura?

A Nakamura was there.

Q Who was Nakamura?

A He was the officer of the military police of the Imperial Japanese Army.

Q Do you know what rank he had?

A I did not know the rank.

Q Do you know or are you certain whether he was an officer or a soldier?

A I was certain that he was an officer because the interpreter told me.

Q And was he the man who questioned you at the Bacolod Kempei Tai?

A He was the one who also investigated me and beat me.

Q Was he, if you know, under Lieutenant Kawamori?

MR. SIMON: Defense will object to that question unless that question is put into two questions. First, does he know him?

MR. BLACK: He said he knew him. He investigated him.

MR. SIMON: Defense will object until a foundation is laid.

COLONEL CHASE: The question now is simply as to the command relationship, if he knows, between the defendant and this individual.

MR. BLACK: I will put it in two parts. I withdraw that original question.

A Yes, sir.

Q Among them was Nakamura?

A Nakamura was there.

Q Who was Nakamura?

A He was the officer of the military police of the Imperial Japanese Army.

Q Do you know what rank he had?

A I did not know the rank.

Q Do you know or are you certain whether he was an officer or a soldier?

A I was certain that he was an officer because the interpreter told me.

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MR. BLACK: He said he knew him. He investigated him.

MR. SIMON: Defense will object until a foundation is laid.

COLONEL CHASE: The question now is simply as to the command relationship, if he knows, between the defendant and this individual.

MR. BLACK: I will put it in two parts. I withdraw that original question.

Q Do you know whether Nakamura was a subordinate of Lieutenant Kawamori?

A I know he was a subordinate of Kawamori.

MR. SIMON: I move that answer be stricken as calling for a conclusion of the witness. There is no foundation to show that this witness is in a position to know the chain of command within the Japanese military organization in Bacolod.

COLONEL CHASE: Objection not sustained.

MR. BLACK: Perhaps the next question will clear it up for defense counsel.

Q Was Nakamura one of the investigators of the Bacolod Kempei Tai?

A He was one of the investigators there.

Q Of the Kempei Tai present during the raid and arrest, were they members of the Bacolod Kempei Tai, if you know?

A They were members of the Bacolod Kempei Tai.

Q How do you know they were members of the Bacolod Kempei Tai?

A Because they wore bands on their arms.

Q Did you ever see them at the Bacolod Kempei Tai headquarters?

A I saw them there.

Q How many times during the period you were confined did you see them there?

A I can say I saw them every day, and even before my arrest I have seen them many times because they were outside the building. Some times they were there and I could see the officers and men.

Q On what day did they discover the arms and ammunition in your house?

A On the second day.

Q Did they beat you before they found the arms or ammunition?

A They beat me; before and after they found the ammunition I was beaten.

Q Do you know how they discovered your arms and ammunition?

A Because they brought me upstairs on the second floor of the investigation room and showed me my arms and ammunition.

Q Did you tell them you had arms and ammunition?

A No.

Q Do you know who told them you had arms and ammunition?

A I don't know.

Q Do you know how they found out?

A I don't know how they found out.

Q What occupation is your uncle, Mr. Baja, in?

A He was a sugar planter, -- foreman, rather. .

Q Is he a business man?

A Farmer.

Q How old is he?

A I cannot give an exact estimate.

Q About say thirty or more?

A More than forty.

Q More than forty.

MR. BLACK: The prosecution has no further questions.

COLONEL CHASE: Has the defense any further questions?

COLONEL CHASE: The witness may be excused.

(Witness excused.)

Since there is only two or three minutes left this afternoon, the Commission will adjourn until 0830 tomorrow morning, November 5, 1946.

(The Commission adjourned at 1455 hours, to reconvene at 0830 hours, 5 November 1946.)

RESTRICTED

**GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS**

*Pres. Ex. #1
Rin trial
4/29/46*

AG 000.5 (5 Dec 45) LS APO 500
5 December 1945
SUBJECT: Regulations Governing the Trials of Accused War Criminals.

TO: Commander-in-Chief, United States Army Forces, Pacific, APO 500
Commanding General, Sixth Army, APO 442
Commanding General, Eighth Army, APO 343
Commanding General, XXIV Corps, APO 235

The following rules and regulations will govern the trials of persons, units and organizations accused as war criminals:

1. ESTABLISHMENT OF MILITARY COMMISSIONS.

a. General. Persons, units and organizations accused as war criminals will be tried by military commissions to be convened by, or under the authority of, the Supreme Commander for the Allied Powers.

b. Number and Types. The commissions will be established dependent upon the number, nature of the offenses involved and the offenders to be tried. Such commissions may include, among others, international military commissions consisting of representatives of several nations or of each nation concerned, appointed to try cases involving offenses against one (1) or more nations.

2. JURISDICTION.

a. Over Persons. The military commissions appointed hereunder shall have jurisdiction over all persons charged with war crimes who are in the custody of the convening authority at the time of the trial.

b. Over Offenses.

(1) Military commissions established hereunder shall have jurisdiction over all offenses including, but not limited to, the following:

(a) The planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

RESTRICTED

*U.S.A. vs Shuji Kawamori
Prosecution's Ex. No. 1
Received: 4 Nov 46*

R E S T R I C T E D

(b) Violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory; murder or ill-treatment of prisoners of war or internees or persons on the seas or elsewhere; improper treatment of hostages; plunder of public or private property; wanton destruction of cities, towns or villages; or devastation not justified by military necessity.

(c) Murder, extermination, enslavement, deportation and other inhuman acts committed against any civilian population before or during the war, or persecutions on political, racial or religious grounds in execution of, or in connection with, any crime defined herein, whether or not in violation of the domestic laws of the country where perpetrated.

(2) The offense need not have been committed after a particular date to render the responsible party or parties subject to arrest, but in general should have been committed since or in the period immediately preceding the Mukden incident of September 18, 1931.

3. MEMBERSHIP OF COMMISSION.

a. Appointment. The members of each military commission will be appointed by the Supreme Commander for the Allied Powers, or under authority delegated by him. Alternates may be appointed by the convening authority. Such alternates shall attend all sessions of the commission, and in case of illness or other incapacity of any principal member, an alternate shall take the place of that member. Any vacancy among the members or alternates, occurring after a trial has begun, may be filled by the convening authority, but the substance of all proceedings had and evidence taken in that case shall be made known to that new member or alternate in open court before the trial proceeds.

b. Number of Members. Each commission shall consist of not less than three (3) members.

c. Qualifications. The convening authority shall appoint to the commission persons whom he determines to be competent to perform the duties involved and not disqualified by personal interest or prejudice, provided that no person shall be appointed to hear a case which he personally

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R E S T R I C T E D

investigated, nor if he is required as a witness in that case. A commission may consist of Army, Navy or other service personnel, or of both service personnel and civilians. One specially qualified member shall be designated as the law member whose ruling is final insofar as concerns the commission on an objection to the admissibility of evidence offered during the trial.

d. Voting. Except as to the admissibility of evidence, all rulings and findings of the commission shall be by majority vote, except that conviction and sentence shall be by the affirmative votes of not less than two-thirds (2/3) of the members present.

e. Presiding Member. In the event that the convening authority does not name one of the members as the presiding member, the senior officer among the members of the commission present shall preside, or such other member as the senior officer may designate.

4. PROSECUTORS.

a. Appointment. The convening authority shall designate one or more persons to conduct the prosecution before each commission. Where offenses involve nationals of more than one nation, each nation concerned, in the discretion of the convening authority, may be represented among the prosecutors.

b. Duties. The duties of the prosecutors are:

- (1) To prepare and present charges and specifications for reference to a commission.
- (2) To prepare cases for trial and to conduct the prosecution before the commission of all cases referred for trial.

5. POWERS AND PROCEDURE OF COMMISSIONS.

a. Conduct of the Trial. A commission shall:

- (1) Confine each trial strictly to a fair, expeditious hearing on the issues raised by the charges, excluding irrelevant issues or evidence and preventing any unnecessary delay or interference.
- (2) Deal summarily with any contumacy or contempt, imposing any appropriate punishment therefor.
- (3) Hold public sessions except when otherwise decided by the commission.

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- (4) Hold each session at such time and place as it shall determine, or as may be directed by the convening authority.

b. Rights of the Accused. The accused shall be entitled:

- (1) To have in advance of trial a copy of the charges and specifications clearly worded so as to apprise the accused of each offense charged.
- (2) To be represented, prior to and during trial by counsel appointed by the convening authority or counsel of his own choice, or to conduct his own defense.
- (3) To testify in his own behalf and have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the commission.
- (4) To have the substance of the charges and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

c. Witnesses. The Commission shall have power:

- (1) To summon witnesses and require their attendance and testimony under penalty; to administer oaths or affirmations to witnesses and other persons and to question witnesses.
- (2) To require the production of documents and other evidentiary material.
- (3) To delegate to the Prosecutors appointed by the convening authority the powers and duties set forth in (1) and (2), above.
- (4) To have evidence taken by a special commissioner appointed by the commission.

d. Evidence.

- (1) The commission shall admit such evidence as in its opinion would be of assistance in proving or disproving the charge, or such as in the commission's opinion would have probative value in the mind of a reasonable man. The commission

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shall apply the rules of evidence and pleading set forth herein with the greatest liberality to achieve expeditious procedure. In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

- (a) Any document irrespective of its classification which appears to the commission to have been signed or issued by any officer, department, agency or member of the armed forces of any government without proof of the signature or of the issuance of the document.
 - (b) Any report which appears to the commission to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or any medical service personnel, or by an investigator or intelligence officer, or by any other person whom the commission considers as possessing knowledge of the matters contained in the report.
 - (c) Affidavits, depositions or other signed statements.
 - (d) Any diary, letter or other document, including sworn or unsworn statements, appearing to the commission to contain information relating to the charge.
 - (e) A copy of any document or other secondary evidence of its contents, if the original is not immediately available.
- (2) The commission shall take judicial notice of facts of common knowledge, official government documents of any nation, and the proceedings, records and findings of military or other agencies of any of the United Nations.
 - (3) A commission may require the prosecution and the defense to make a preliminary offer of proof, whereupon the commission may rule in advance on the admissibility of such evidence.
 - (4) If the accused is charged with an offense involving concerted criminal action upon the part of a military or naval unit, or any group or organization, evidence which has been given previously at a trial resulting in the

R E S T R I C T E D

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conviction of any other member of that unit, group or organization, relative to that concerted offense, may be received as prima-facie evidence that the accused likewise is guilty of that offense.

- (5) The findings and judgment of a commission in any trial of a unit, group, or organization with respect to the criminal character, purpose or activities thereof shall be given full faith and credit in any subsequent trial, by that or any other commission, of an individual person charged with criminal responsibility through membership in that unit, group or organization. Upon proof of membership in that unit, group or organization convicted by a commission, the burden shall be on the accused to establish by proof any mitigating circumstances relating to his membership or participation therein.
- (6) The official position of the accused shall not absolve him from responsibility, nor be considered in mitigation of punishment. Further, action pursuant to order of the accused's superior, or of his government, shall not constitute a defense, but may be considered in mitigation of punishment if the commission determines that justice so requires.
- (7) All purported confessions or statements of the accused shall be admissible without prior proof that they were voluntarily given, it being for the commission to determine only the truth or falsity of such confessions or statements.

e. Trial Procedure. The proceedings at each trial will be conducted substantially as follows, unless modified by the commission to suit the particular circumstances:

- (1) Each charge and specification will be read, or its substance stated, in open court.
- (2) The presiding member shall ask each accused whether he pleads "Guilty" or "Not guilty".
- (3) The prosecution shall make its opening statement.
- (4) The presiding member may, at this or any other time, require the prosecutor to state what evidence he proposes to submit to the commission, and the commission thereupon may rule upon the admissibility of such evidence.

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- (4) The presiding member may, at this or any other time, require the prosecutor to state what evidence he proposes to submit to the commission, and the commission thereupon may rule upon the admissibility of such evidence.

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- (5) The witnesses and other evidence for the prosecution shall be heard or presented. At the close of the case for the prosecution, the commission may, on motion of the defense for a finding of not guilty, consider and rule whether the evidence before the commission supports the charges against the accused. The commission may defer action on any such motion and permit or require the prosecution to reopen its case and produce any further available evidence.
- (6) The defense may make an opening statement prior to presenting its case. The presiding member may, at this or any other time, require the defense to state what evidence they propose to submit to the commission, whereupon the commission may rule upon the admissibility of such evidence.
- (7) The witnesses and other evidence for the defense shall be heard or presented. Thereafter, the prosecution and defense may introduce such evidence in rebuttal as the commission may rule admissible.
- (8) The defense, and thereafter the prosecution, shall address the commission.
- (9) The commission thereafter shall consider the case in closed session and unless otherwise directed by the convening authority, announce in open court its judgment and sentence, if any. The commission may state the reasons on which the judgment is based.

f. Record of Proceedings. Each commission shall make a separate record of its proceedings in the trial of each case brought before it. The record shall be prepared by the prosecutor under the direction of the commission and submitted to the defense counsel. The commission shall be responsible for its accuracy. Such record, certified by the presiding member of the commission or his successor, shall be delivered to the convening authority as soon as possible after the trial.

g. Sentence. The commission may sentence an accused, upon conviction, to death by hanging or shooting, imprisonment for life or for any less term, fine or such other punishment as the commission shall determine to be proper. The commission may also order confiscation of any property of a convicted accused, deprive that accused of any stolen property or order its delivery to the Supreme Commander for the Allied Powers for disposition as he shall find to be proper, or may order restitution with appropriate penalty in cases of default.

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h. Approval of Sentence. No sentence of a military commission shall be carried into effect until approved by the officer who convened the commission, or his successor. Such officer shall have authority to approve, mitigate, remit in whole or in part, commute, suspend, reduce or otherwise alter the sentence imposed, or (without prejudice to accused) remand the case for rehearing before a new military commission; but he shall not have authority to increase the severity of the sentence. No sentence of death shall be carried into execution until confirmed by the Supreme Commander for the Allied Powers. Except as herein provided, the judgment and sentence of a commission shall be final and not subject to review.

6. RULE MAKING POWER.

Supplementary Rules and Forms. Each commission shall adopt rules and forms to govern its procedure, not inconsistent with the provisions hereof, or such rules and forms as may be prescribed by the convening authority or by the Supreme Commander for the Allied Powers.

By command of General MacARTHUR:

H. W. ALLEN,
Colonel, A.G.D.,
Asst Adjutant General.

RESTRICTED

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

AG 000.5 (3 June 46) 12

AFD 500
3 June 1946

SUBJECT: Trial of Shuji Kawamori.

TO : Commander-in-Chief
United States Army Forces, Pacific, AFD 500.

1. It is desired that a Military Commission be appointed for the trial of Shuji Kawamori, member of the Imperial Japanese Army for the alleged offenses indicated in the attached Charge.

2. The trial is to be held in the City of Manila, Philippine Islands. The trial shall be conducted in conformity with Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, General Headquarters, Supreme Commander for the Allied Powers.

3. The record of trial including judgment or sentence and the action of the appointing authority will be forwarded to General Headquarters, Supreme Commander for the Allied Powers. Unless otherwise directed, the execution of any death sentence will be withheld pending the action of the Supreme Commander for the Allied Powers.

By command of General MacARTHUR:

/s/ J. W. Mann
/s/ J. W. MANN
Lt Colonel, AGP
Asst Adjutant General

1 Incl:
Chg vs Shuji Kawamori

CERTIFIED TRUE COPY:

Douglas E. Allis
DOUGLAS E. ALLIS
1st Lt., INF

U.S.A. vs *Shuji Kawamori*
Prosecution
Defense

Exhibit No. *2*
702
1946

BASIC Ltr, GHQ, SCAP, file 000.5 (3 June 46) LS dated 3 June 46, subj:
"Trial of Shuji Kawamori."

AG 000.5 (3 June 46) LS 1st Ind.

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC, APO 900,
3 June 1946.

TO: Commanding General, United States Army Forces, Western Pacific,
APO 707.

1. Pursuant to basic communication you are hereby directed to
appoint a Military Commission for the trial of the following named mem-
ber of the Imperial Japanese Army:

Shuji Kawamori

2. All records of trial including judgment or sentence and the
action of the appointing authority will be forwarded to General Headquar-
ters, Supreme Commander for the Allied Powers. Unless otherwise directed,
the execution of any death sentence will be withheld pending the action
of the Supreme Commander for the Allied Powers.

3. The following named officers, assigned to the War Crimes Inves-
tigating Detachment, General Headquarters, Supreme Commander for the
Allied Powers, are made available to your command for service as prosecu-
tion personnel on the Military Commission to be convened by you for this
purpose:

1st Lt. James H. Ross, INF, Chief Prosecutor
2nd Lt. Felix L. Finlay, Jr., GME, Assistant Prosecutor.

By command of General MacARTHUR:

/s/ J. W. Mann
/s/ J. W. MANN
Lt Colonel, AGP
Asst Adjutant General

1 Incl:
Chg as indicated

CERTIFIED TRUE COPY:

Douglas E. Allen
DOUGLAS E. ALLEN
1st Lt., INF

MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces, Western Pacific

APD 707
2 Nov 1946

SUBJECT: Swearing Witnesses for the Trial of Shuji
KAWAMORI

TO : Prosecutor for Commission.

1. Pursuant to authority of provisions of Letter General Headquarters, United States Army Forces, Pacific, 5 December 1945, subject: "Regulations Governing the Trial of War Criminals", you are authorized, as prosecutor of cases referred for trial to the Military Commission convened by the Commanding General, United States Army Forces, Western Pacific, by paragraph 12, Special Orders No. 243, dated 22 October 1946, to issue, for this Commission, summons to compel the attendance of witnesses to any such trial and to require such witnesses to bring with them any papers or documents which may be used as evidence in such trial, and to administer oaths or affirmations to witnesses and other persons.

/s/ John A. Chase
JOHN A. CHASE
Lt Col CMP
President of Commission

USA vs Shuji KAWAMORI
Prosecution's Exhibit No. 3
November 1946

CERTIFIED TRUE COPY:

/s/ Murray F. Gibbons Jr.
MURRAY F. GIBBONS JR
Capt., INF

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

VOLUME II

PAGES 106 TO 189, INCL.

MANILA, P. I.

DATE: 5 November 1946

COPY NO: 10

cm

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

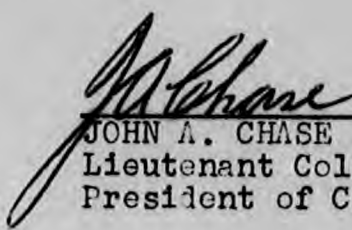
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.


JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

Shuji KAWAMORI

PUBLIC TRIAL

)
)
)
)
)
Court No. 3
High Commissioner's Residence
Manila, P. I.
5 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP, President
and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WERLINGER, TC
CAPTAIN HARLYN W. LACEY, CAV (QM)

APPEARANCES:

FOR THE PROSECUTION:

MR. ABRAHAM BLACK, CS, Chief Prosecutor
SECOND LIEUTENANT DEMETRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, Chief Defense Counsel, CS
MR. OTTO SCHULTZ, Assistant Defense Counsel, CS

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTEO DIANALA JO)
ROGELIO CATANJAL) ILONGO (VISAYAN)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY COMMISSION</u>
Epifanio Baja (in substance) - page 106					
Moises Alipala	111	118	127 130 131	128 130 132	131
Manuel Gomez	133	145			
Cresencio Federez	155	186			

PROCEEDINGS

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 5 November 1946, at the High Commissioner's Residence, at Court No. 3, Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Let the record show that when the Commission reconvened all the members of the Commission, the prosecution, defense counsel, the accused and the personal interpreter of the accused were present.

At this time, with the permission of the Commission, and on notice to the defense, it is stipulated between the prosecution, defense counsel and the accused that if Mr. Epifanio Baja were present and sworn as a witness for the prosecution, he would testify in substance as follows, but not necessarily admitting the truth of his testimony. Is that acceptable to the defense?

MR. SIMON: It is agreeable with the defense, sir.

COLONEL CHASE: The stipulation will be accepted in evidence by the Commission on that basis.

(The prosecution started to read this stipulation in the third person using as a guide a statement written by the witness in the first person but inadvertently changed to the first person as in the statement. It is to be read as if spoken entirely in the third person.)

MR. BLACK: That his name is Epifanio Baja, 51 years of age, a Filipino residing at 65 Smith Street, Bacolod City, Occidental Negros, farmer; that early in the morning of the 26th of January, 1943, at about four or five o'clock in the morning, many Japanese constabulary men and Japanese Kempei

came to our place. The whole block in which we were living was surrounded and practically all the houses were guarded. One Japanese officer, Ando, and several Japanese soldiers

106-A

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with fixed bayonets entered his house. When they were inside his house, Ando began questioning him as to the whereabouts of his son, Eduardo Baja, 25 years old, Filipino. He told him that I did not know because he had left. Ando asserted that my son was hiding in the attic of my house. They then tied my hands behind my back and took me to the Kempei headquarters at the Bacolod Private Hospital. When I got there I was surprised to see that I was not the only one arrested, and I recognized Roberto Ramos, 30 years old; Jose Garcia, 20 years old (now dead); Espiridion Gonzales, 28 years old; Freddie Pahayupan, 23 years old; Hugo Gestosane, 30 years old; Cesar Policarpio, 23 years old; Antipas Baliguas, 27 years old; Jose Jorbina, 29 years old; Dionisio Huevos, 22 years old (now dead); Ludovico Cata-al, 19 years old; Bienvenido Cata-al, 45 years old; Vicente Dadivas, 37 years old; Salvador Aranas Dadivas, 30 years old; Dalmacio Alba, 28 years old; and Orlando Diosera, 22 years old; all residents of Bacolod City, Occidental Negros. We were all herded into a cell, and a few minutes later Roberto Ramos was taken out of the cell to the investigation room. He was placed in another cell when brought out of the investigation room. Jose Garcia was the next prisoner investigated and after an hour of grilling, Garcia was returned to the cell. He told us that he had been beaten, and we could see the bruises and marks on his body, especially at the back, legs and arms. Freddie Pahayupan was the third to be taken to the investigation room. We heard him crying and shouting and he was then brought back to the cell. I was the fourth to be investigated. In the investigation room Sergeant Sasaki began questioning me. Uehara, the Japanese civilian interpreter

was there, too. Sasaki kept questioning me regarding my son Eduardo Baja, but I told him that my son had gone to the farm and had not returned until now. Sasaki inquired whether he was a soldier in Manila formerly but I answered that I did not know. When Sasaki finished questioning me about my son, he suddenly asked me this question, "Why are you hiding here as chief of the Bolo Battalion?" and at the same time struck me with a piece of wood on the thorax and again, on the right shoulder. Uehara inquired whether I was really the chief of the Bolo Battalion and I replied that I was not. Sasaki upon hearing this kicked me on the right leg. Of my 16 companions who were in the Kempei when I was taken there, only the three above were maltreated, to my knowledge. My son, Eduardo Baja, was an officer in the guerrilla. I did nothing to make the Japanese angry against me.

It is further stipulated that the witness would have testified that the accused, Kawamori, was not present during the mistreatment of Baja and his two companions above mentioned and that Kawamori, the accused, did not know about these beatings.

Is there anything else in connection with that, Mr. Simon?

MR. SIMON: Request a one minute recess and I will straighten out the balance of that stipulation.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: It is further stipulated that the witness had no knowledge whether the accused knew about the beatings

and mistreatment above referred to; that the witness knew Lieutenant Kawamori, the accused.

MR. SIMON: And that he did not complain to Kawamori concerning his mistreatment.

MR. BLACK: On that day I told Sasaki that some of my other companions were innocent civilians, and on the following day, in the morning, January 28, 1943, the following were released; Bienvenido Cata-al, Ludovico Cata-al, Vicente Dadivas, Salvador Aranas Dadivas, Orlando Diosero, all Filipinos. These five were never beaten nor maltreated by the Japanese. Roberto Ramos was placed in another cell far from us and I do not know what happened to him there after the first investigation. On February 9, 1943, my companions and I were released, except Roberto Ramos, who was released April 29, 1943.

At this time I will ask the Commission to take judicial notice of the trial of the case of the United States of America versus Jyunji Sasaki, and I particularly invite the Commission's attention to the testimony of Epifanio Baja on page 126 thereof. Reading from page 126 about one-third down the page:

"Q Did anything else happen to you while you were in the Kempei Tai?

"A Five days after, I think, after our confinement he called me to go with one man named Dalmacio Alba, and without any question or investigation he slapped me.

"Q Where did he slap you?

"A He slapped me on the right face and on the left. And that made my spectacles drop into the floor.

"Q Did he ever do anything else to you?

"A After that, no more.

"Q How long were you confined in the Kempei Tai from the time you were arrested? What day were you released?

"A We were released on February 9, 1943."

Continuing on page 129:

"BY COLONEL CONWAY:

"Q During your alleged mistreatment were any persons other than yourself and Sasaki present?

"A I do not understand.

"Q During this alleged mistreatment were there any other persons present in the room beside yourself and Sasaki?

"A When I was investigated there were only three.

"Q Who was the third person?

"A The interpreter Uehara and myself and Sergeant Sasaki.

"Q There were no other persons present?

"A No other persons."

MR. SIMON: One other thing, sir, on page 126 the testimony referring to "he slapped me," the "he" refers to Sergeant Sasaki. If the attention of the Commission is invited to page 127 of the record, it is not the accused in this action.

COLONEL CHASE: As I understand it, there is no direct reference to the accused in this extract of the Sasaki case.

MR. BLACK: That is right, sir.

At this time the prosecution will call as its next witness Moises Alipala. This witness will be in support of Specification 15.

MOISES ALIPALA

a witness for the prosecution, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. BLACK:

Q Do you understand English and speak it?

A I can understand English.

Q Would you rather testify in English or in Visayan?

A I think I will testify in Visayan.

(The following testimony was given through Interpreter
Dianala Jo)

Q What is your full name?

A Moises Alipala.

Q What is your nationality?

A Filipino.

Q What is your occupation?

A Chief of Police of Bacolod, Murcia Milling Company.

Q What was your occupation during the Japanese occupation of Bacolod?

A I was in business.

Q What kind of business were you in?

A I was selling dried fish and salt and others.

Q Do you know Manuel Gomez?

A Yes, I know him.

Q During November 1942 where were you?

A In 1942 I was in Bacolod.

Q During November 1942 were you ever arrested by the Japanese?

A Yes.

Q Will you tell the Commission the circumstances with particular reference to the date, if you know, the place and the persons regarding that arrest.

(To Interpreter Dianala Jo) Is that too long a question?

INTERPRETER DIANALA JO: It is a quite long question.

MR. BLACK: I will withdraw that question and rephrase it.

Q Tell the Commission what happened.

A On November 7, 1942, at about ten o'clock more or less in the morning, when I was standing in front of the Villanova Transportation with Manuel Gomez, we two were captured by two Japanese. Their names were Uehara and Sasaki. We were brought to the Kempei Tai Headquarters at the De La Pena Building. When we were there we were asked to stand at the balcony near the kitchen until afternoon, without giving us any food. About six o'clock in the afternoon Manuel Gomez and myself were brought to the investigation room. He was investigated in

another room, and I was also in another room. When I was investigated and I have not said anything regarding the things they asked me, I was sent out by the one who investigated me, and I was told to wait for my companion. At about eight o'clock at night Sasaki, who was investigating Manuel Gomez, went to where I was sitting and said that I was lying because Manuel Gomez declared that our business was for the army so he brought me to the place where Manuel Gomez was investigated. When I arrived at the place where Manuel Gomez was investigated, I saw that he was beaten by Sasaki and he was kneeling on pieces of wood. Then Sasaki said to me that your companion has already declared that your business is for the army. Then I answered that that is a lie. Because this person could no longer stand your torture he was forced to declare what was against him. So Sasaki sent me out and investigated again Manuel Gomez. At nine o'clock in the evening I was again taken by Sasaki for investigation because they brought already Manuel Gomez to the cell. When I arrived at the investigation room, Sasaki struck me twice on my face then he jujitsu'd me. After a long time of giving me the jujitsu, he asked me again to kneel on the broken pieces of wood. Then he struck me with the handle of an axe, and he was asking me about the army and whether our business was for the army. I answered him that it was not for the army. Then when I was kneeling they piled big books on my knees, and Sasaki was standing on my back. After a long time of kneeling, and while I was beaten with the handle of an axe on my legs and on my back then they hang me. They tied me on my arms and hung me, and while I was hanging they swung me

back and forth and beat me with the handle of an axe. I was hanging there at three o'clock in the morning and I was already very weak. When I was still hanging they burned pieces of paper below my feet. They lighted a cigarette and touched it on my face and neck. Later on I was already out of breath. In the morning of October 8th I found out that I was already inside of the cell, and only my head could move because the rest of my body could not.

MR. BLACK: Just a moment. Ask him when he was arrested.

A On November 7th.

MR. BLACK: He just stated, if I heard him correctly, that it was on October 8th.

A No, November 8th.

MR. BLACK: That is what I wanted to clear up. You may continue.

A (continuing) When I was already inside of the cell, I could not eat because I could not move my hands. The rest of my companions sympathized with me and helped me eat. When I was in the jail I noticed that the rest of us were tied and others could not move. We were just given a little food and at times we did not have viand or even salt. If we ever have any viand it is nothing more than the tails, the bones, and the head of the fish which was left over by what the Japanese had eaten. During my stay in the cell I have not eaten anything that is equivalent to what the poor man eats in the Philippines. After about three days of my stay in the cell, about seven o'clock in the morning there was a Chinese that

was brought in the cell and tied.

MR. SIMON: At this time defense moves to strike the last portion of the testimony in regard to bringing a Chinaman into the cell since that is not included in Specification No. 15.

COLONEL CHASE: Is there anything pertaining to this Chinese in Specification No. 15?

MR. BLACK: No, sir. I will consent to that being struck.

COLONEL CHASE: Instruct the witness to answer the question along lines material to the charges in this case.

Q How long were you kept in the Kempei Tai jail?

A I stayed there more than two months, but I was released after four months and ten days.

Q Do you remember approximately the date when you were released?

A Yes.

Q What is it?

A March 17, 1943.

Q From November 7, 1942, until March 17, 1943, were you kept at the Kempei Tai Headquarters all the time?

A No, because about the end of January 1943 I was brought, together with another Filipino prisoner, to Panay and we were made as baggage carriers of their provisions.

Q When did you return to the Kempei Tai in Bacolod?

A I arrived at Bacolod on March 16, 1943.

Q And you were released on the following day?

A Yes.

Q Were there any marks or bruises on you?

A Right now I have marks, but they are already very insignificant.

Q Where do you have those marks?

A They are here on my knees (indicating).

MR. BLACK: The witness pointed to the shinbone on his legs as the place where there were scars, but they are not obvious at the present time. Is that satisfactory?

MR. SIMON: No objection, sir.

Q Were there any other places where you have scars or marks as a result of the beating on the street?

A No more because those places where I was tied had already healed.

Q Did you suffer any pain when you were beaten and mistreated?

A Plenty.

Q Is that a fact or is it merely because I asked you?

A It is really true.

Q What offense or crime had you committed against the Japanese?

A Nothing, no crime against the Japanese.

Q What did they accuse you of?

A They accused me because they said that what I was selling was for the guerrillas in the mountains.

Q Were you selling to the guerrillas in the mountains or anywhere else?

A I do not know as to who are buying from us because we were selling at the market place, and anybody who comes around we sell to them.

Q Were you a guerrilla? Did you aid and assist the guerrillas?

A No.

Q Was Manuel Gomez a guerrilla, if you know?

A I could not say because we were together selling in the market.

Q Do you know whether Manuel Gomez was a guerrilla?

A He is not a guerrilla.

Q Were you ever given a trial by the Japanese Kempei Tai?

A No.

Q Do you know the names of the Japanese Kempei Tai who arrested you?

A Yes, I know them.

Q What were their names?

A Sasaki was the Kempei Tai and Uehara was the interpreter.

Q Was Sasaki the one who investigated you?

A Yes.

Q At the Kempei Tai Headquarters?

A Yes.

Q The first place you were taken to, was it the De La Pena house?

A Yes, the De La Pena Building.

Q Were you then moved to the Bacolod Private Hospital?

A We were brought there at about the end of December.

Q 1942?

A 1942.

Q Do you know the accused?

A I know that he is Kawano, the accused (indicating).

Q Do you see him here?

A Yes, I could see him.

Q Will you point him out.

A He is there (indicating).

MR. BLACK: The record will show that the witness pointed out the accused.

Q Kawamori never beat you, did he?

A No, he did not.

Q During the time that you were imprisoned did you ever see him at the Kempoi Tai Headquarters?

A I saw him because sometimes in the morning and sometimes in the afternoon he used to pass through the railings of our cell.

Q Was Kawamori present during the times that you were beaten at any time?

A When I was beaten he was not there where I was beaten, but he was in his office.

MR. BLACK: Defense may inquire.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Will you remind the witness that he is still under oath.

(Translated to witness by Interpreter Diamala Jo.)

CROSS-EXAMINATION

BY MR. SIMON:

Q How did you first learn the name of Kawamori?

A I learned of his name because during the inspection tour

in our cell some of my companions pointed to him saying, "That is Kawamori."

Q Did you talk to Kawamori during any of these inspection trips?

A No, because we were afraid of him.

Q Did you ever complain to the Japanese military authorities concerning your alleged mistreatment by Sasaki?

A We did not have the chance to complain to them.

Q After March 17, 1943, did you go to the Filipino Constabulary and complain that you had been mistreated by the Japanese?

A No, I did not go.

Q Was Manuel Gomez your partner in business?

A Yes, he was my companion in business on that day.

Q Did you have different partners on different days when you were selling this dried fish and salt?

A We were together when we go to buy, but when we sell, we sell separately.

Q Where did you generally buy the merchandise that you sold?

A There is no definite place because at times we go to Silay to buy and sometimes only in Bacolod.

Q When you traveled from Bacolod to Silay and from Silay to Bacolod did you deliver messages and information for the guerrillas?

A No.

Q At that time wasn't the dried fish and salt business closely controlled and regulated by the Japanese military authorities?

A At that time it was not controlled yet.

Q When did that business become controlled?

A I do not know when they started controlling it because we were imprisoned there at that time.

Q Wasn't it true that about that time the Japanese Military authority controlled the sale and prices of all foods?

A Not yet.

Q Did you have in your possession any of the pesos issued by the former Philippine Commonwealth, that you had acquired from the sale of your fish?

A When I was arrested I had none because I do not have money.

Q Weren't you going at that time to buy fish?

A I went to buy fish, but we had already bought it.

Q And did you use "Mickey Mouse" money to buy fish or did you use Commonwealth pesos?

A It is the Philippine peso that we used.

Q And didn't you acquire those Philippine pesos by selling your products, your food, your salt to the guerrillas in the mountains who paid you in pesos?

A No.

Q Isn't it true that the people in the city of Bacolod use "Mickey Mouse" money to transact business with?

A At that time the people in Bacolod were using the Japanese notes.

Q And the Japanese required -- withdraw that -- and didn't the Japanese require that you do business; that you buy and sell using these Japanese notes?

A No, the money of the Filipinos and the money of the Japanese were both used.

Q Was Manuel Gomez released at the same time that you were released?

A No.

Q When was Manuel Gomez released by the Kempei Tai?

A I don't know because I was taken to Panay and Manuel Gomez was still in the cell.

Q Were you ever mistreated at the Kempei Tai cell after these initial investigations?

A Yes.

Q Didn't you testify that you were mistreated these first two days while they were questioning you about doing business with the guerrilla army, and thereafter just placed in the cell?

A I was tortured on November 7th from nine o'clock up until three o'clock in the morning more or less.

Q From November 9th until you were transferred to Panay weren't you just kept confined in the cell by the Kempei Tai?

A I was yet beaten by Christmas.

Q When was the next time that you were beaten after November 8th of 1942?

A On December 22, 1942.

Q Between November 8th and December 22nd you were not mistreated, is that true?

A I was no longer mistreated because I was too weak.

Q Isn't it true that you had violated some regulation that resulted in your being disciplined on December 22, 1942?

A No, I have not done anything against the regulations of the place.

Q Was anyone else mistreated with you that day?

A I was alone.

Q Why were you mistreated then?

A Because they investigated me again whether I am aiding the guerrillas or whether I am selling to the guerrillas.

Q Didn't the guerrillas have men in town that bought supplies and food for those that stayed in the mountains?

A I do not know because they did not tell me.

Q Didn't you know how the guerrillas received their supplies of food during the time the Japanese occupied Bacolod?

A I do not know.

Q Did you ever hear of the Bolo Battalion?

A I heard of the Bolo Battalion.

Q What is the Bolo Battalion?

A From what I have learned the Bolo Battalion were the civilians who used Bolos.

Q And those civilians were helping guerrillas by supplying them food and information as to what the Japanese were doing, is that true?

A What I know of the Bolo Battalion was that it was organized before the landing of the Japanese, but during the landing of the Japanese I have not learned whether this Bolo Battalion is in existence or not.

Q Do you know who disclosed to the Kempei Tai the information that you were dealing with the guerrillas?

A I do not know.

Q Did you ever find out who had disclosed that information?

A I tried to investigate but I have not learned of any.

Q Have you discussed this case with Manuel Gomez before you came to this courtroom?

A No.

Q Didn't you ever talk to Manuel Gomez at Bacolod concerning your mistreatment by the Japanese?

A It was not necessary because he also knew.

Q Did Manuel Gomez discuss with you his mistreatment by the Japanese?

A No.

Q Did you also know of his mistreatment?

A I know because when I was brought to the investigation room I saw Gomez kneeling on those pieces of wood and I actually saw that he was beaten by Sasaki and that he has bruises.

Q Do you mean you saw bruises on Manuel Gomez?

A I have seen some on his hands.

Q But you did not see any Japanese strike Gomez while you were in the room?

A I have seen Sasaki beating him.

Q Where did he strike Gomez?

A Here at the back (indicating) but because of his clothes I could not see whether there are bruises or not.

Q Did he strike him just once or twice?

A Twice, and then I was brought outside.

Q That was all the mistreatment that you saw?

A That is all what I have seen on Manuel Gomez.

Q Do you know why you went to Panay as a cargador?

A I do not know.

Q Didn't the Japanese send their bad prisoners to Panay to work as cargadors for a certain period of time?

A I do not know.

Q Did you ever find out why you were selected to be sent to Panay and not the other prisoners?

A I did not because I am also afraid to investigate.

Q When you returned to Bacolod on March 16, 1943, was Gomez still being confined by the Japanese there?

A No more.

Q Did you see Gomez during March of 1943?

A I have seen him in the store.

Q Did he tell you when he was released?

A I did not ask him as to when he was released.

Q Were you shown any picture of Kawamori before you came to this courtroom?

A I have not seen his picture.

Q Have you seen Kawamori since March of 1943?

A Since March, 1943, I have not seen Kawamori because I fled to the mountains.

Q When you looked from the inside of the cell toward the shutter through which the inspecting officer looks into the cell, isn't it rather dark and difficult to see?

A No, it is clear.

Q How many times did Kawamori inspect your cell while you were confined at the Kempei headquarters?

A I have not counted as to how many.

Q Was it two or three times?

A More than that.

Q Did he stay only for short intervals when he came to inspect, say a minute or so as he went by the cells?

A It is also for some time because at times he comes inside and inspects what belongings we have.

Q Did you discuss this case with anyone before you came to this courtroom?

A I have told it to my attorney.

Q Who is your attorney?

A Attorney Black.

Q How did Attorney Black get your name?

MR. BLACK: I don't like to object. There is no harm to the question, but --

MR. SIMON: I will go at it in a different fashion. I withdraw the question.

Q Didn't you discuss this case with an investigator before you came to Manila?

A I have not revealed it to anybody or told anybody. I was only brought to Manila.

Q Do you know how the War Crimes Investigating Detachment learned that you had been mistreated?

MR. BLACK: If it please the Commission, how can this witness possibly know how the War Crimes Commission found out about his name or about what happened to him?

MR. SIMON: If it please the Commission, it is just common knowledge that these people just don't pop up into Manila and testify about war crimes. Generally, their names are disclosed by WCID, affidavits are signed, they are shown pictures, and defense wants to check into the background as to

how this man became involved in this action.

MR. BLACK: That is perfectly true. I will concede that. Why don't you ask the witness if anybody had questioned him?

COLONEL CHASE: I think the Commission can take judicial notice of the normal investigative procedure of the WCID. We can go ahead from there and you can ask any specific questions with regards to that procedure regarding this witness.

Q Didn't an investigator talk to you before your coming to Manila?

A When I was in Negros I was told by Captain Gestoso that you are one of the prisoners in 1942, and he told me to tell what has been done to me there in Manila.

Q Did Captain Gestoso tell you to tell the Commission that you had been mistreated by the Japanese?

A What he told me was to tell the Commission as to what the Japanese had done to me.

Q Didn't Captain Gestoso show you some pictures of some Japanese on whom to blame this mistreatment?

A No, none of any kind.

Q Did Captain Gestoso tell you that Sasaki and Uehara were to be tried at Manila and you were to testify against them?

A No, because I was only told lately.

Q Weren't you ever shown pictures of Japanese who were stationed at Bacolod?

A No.

Q Did you tell Captain Gestoso who mistreated you?

A We both have not talked about my mistreatment.

Q You did not tell Captain Gestoso that you were mistreated?

A No, I did not.

Q Did you tell Captain Gestoso that you were not mistreated?

A We did not talk about that, but he just told me that I am wanted in Manila because I have been mistreated by the Japanese.

Q After your investigation on the first day that you were arrested by the Kempei Tai, did you walk from the investigation room back to your cell?

A I did not know because I was already unconscious.

Q The first time that you were investigated?

A Yes.

Q The second time that you were investigated, did you walk from your cell to the investigation room?

A On the second I walked from my cell to the investigation room.

Q Did you walk from the investigating room back to your cell after the second investigation?

A I walked but I was being guided by the Japanese interpreter.

MR. SIMON: No further questions, sir.

MR. BLACK: The prosecution has one or two questions.

REDIRECT EXAMINATION

BY MR. BLACK:

Q When did Captain Gestoso talk to you about going to Manila to testify?

A He informed me on the 8th of October.

Q What year?

A 1946.

MR. BLACK: May the record show that Captain Gestoso is a member of the Philippine Army attached for duty with

War Crimes Investigation Division Unit.

MR. SIMON: It is agreeable with the defense. The defense would like to invite the Commission's attention to the amended Specifications which for the first time alleges Specification 15, and that is dated 28 September 1946, before anybody allegedly contacted this witness.

MR. BLACK: I will ask him another question.

Q When was the first time you were told anything about the case or about testifying in the case?

A October 8, 1943.

Q What year?

A 1946.

Q Subsequent to that did you go to Manila?

A On the morning we left for Manila.

Q Who is "we"?

A I have companions: Manuel Gomez, Epifanio Baja and Pedro Quillinguin.

Q Do you know whether these people came as witnesses?

A I know.

Q Did you talk to me at the place where you are now staying?

A Yes, I have spoken to you.

MR. BLACK: No further questions by the prosecution.

RECROSS-EXAMINATION

BY MR. SIMON:

Q On your way up from Bacolod to Manila with your companions, didn't you discuss with each other your testimony to be given in this case?

A We do not talk.

Q You never said a word to each other all the way up from

Bacolod to Manila, is that true?

A We discuss that we are coming to Manila to testify here in the court.

Q Didn't you go over your stories at that time which you were going to testify about?

A We do not.

Q Weren't you taken over here to the stockade to try to identify Kawamori?

A Yes, I was.

Q In fact, you were taken there twice, weren't you?

A Only once.

Q Didn't you fail to identify Kawamori the first time that you saw him in the line up?

A When I first saw him I was doubting because before he was stout and baldheaded and he had a mustache.

Q Then, how did you later come to recognize him? What removed this doubt from your mind?

A I imagine that if he will be baldheaded and if he had a mustache, he will be the one.

Q Weren't you accompanied by a captain at the time you made this inspection at the stockade?

A Who is the captain?

Q Who was with you when you went to look at the prisoners?

A My only companion was Attorney Black.

Q Wasn't there an army officer with you at that time?

A No.

Q Did anyone indicate to you which one was Kawamori?

A No.

MR. SIMON: No further questions.

MR. BLACK: I have a few more.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Mr. Alipala, when you said that you expected to see Kawamori with a mustache and baldheaded, tell us what you meant by that.

A What I wanted to say is that before he was baldheaded and had a mustache and now that I meet him, he has long hair and no more mustache.

Q When you saw him in Bacolod did he have a mustache?

A Yes, he had.

Q When you say he was baldheaded, do you mean he was bald-headed like I am or that he had short hair?

A His hair cut was too short, shaved with a razor.

MR. BLACK: The prosecution has no further questions.

RECROSS-EXAMINATION

BY MR. SIMON:

Q Thinking back again when you visited the stockade over here, didn't you make two visits, your last visit being four or five days after your first visit?

A Only one.

Q Do you remember the date on which you visited the stockade?

A I cannot remember.

Q Wasn't Kawamori the only man brought out at that time?

A There were others brought out but they were not shown to me. They were shown to somebody else.

Q But they showed you Kawamori, didn't they?

A He was shown to me.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Anything further, Mr. Black?

MR. BLACK: No, sir.

COLONEL CHASE: Questions by the Commission?

(No response.)

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q When you said his hair was short, you meant that his hair had been cut short by a barber or that his hair had fallen out?

A It was cut by a barber.

Q You testified as to inspections by Kawamori. When he made these inspections, did you still have the bruises and marks of your mistreatment so that he could have seen them, or was this at another time?

A During this inspection I had bruises because I was only wearing an undershirt. He could also notice that my hands could not be moved because of the effect of hanging.

COLONEL CHASE: Any questions by the prosecution?

MR. BLACK: One question, sir.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Mr. Alipala, did you ever sign any kind of a statement in connection with this case, an affidavit or otherwise?

A No.

MR. BLACK: No further questions.

RECROSS-EXAMINATION

BY MR. SIMON:

Q Didn't you sign a statement or an affidavit for a War Crimes investigating officer before you came to Manila?

A No.

Q Didn't Captain Gestoso ask you questions and put them on a piece of paper and you signed it?

A No.

MR. SIMON: No further questions, sir.

MR. BLACK: No questions by the prosecution.

COLONEL CHASE: There appearing to be no further questions, the witness is excused.

(Witness excused)

COLONEL CHASE: The Commission will take a five-minute recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The prosecution will call as its next witness Manuel Gomez in support of Specification No. 15.

MANUEL GOMEZ

a witness for the prosecution, being first duly sworn,
testified as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your full name?

A Manuel Gomez.

Q Where do you live?

A Murcia.

Q What is your occupation?

A Business man.

Q What kind of business?

A Selling dry fish.

Q On or about November 7, 1942, were you in Bacolod City?

A Yes.

Q Who were you with?

A Moises Alipala.

Q Who is Moises Alipala?

A He was my companion when we used to buy salted and dry fish.

Q Was he your partner?

A Yes, he is my companion.

Q What were you doing in Bacolod on November 7, 1942?

A When we came from Silay, coming to Bacolod, it was already late in the afternoon and we did not overtake the market day.

MR. SIMON: Request the reporter read back the answer.

(The answer was read.)

Q Did anything happen to you and Alipala?

A Yes, there is something that happened.

Q What happened?

A We were caught by the Kempei.

Q What do you mean you were caught by the Kempei?

A We wanted to go out that afternoon but we were not allowed.

Q Did you have a truck with you at that time?

A We have a truck.

Q Did you have anything on the truck?

A Plenty.

Q What was on the truck?

A Salted shrimp and dry fish.

Q You said you were detained by the Kempei Tai?

A We were imprisoned.

Q Where?

A In the house of De La Pena.

Q What was the house "De La Pena"?

A The place where the Kempei lived.

Q Was Moises Alipala taken there, too?

A Yes, both of us.

Q What happened to you at the house "De La Pena"?

A At six o'clock in the afternoon, we were investigated by Sasaki.

Q Who else was present during the investigation by Sasaki?

A The interpreter, Hirada.

Q What happened during this investigation?

A They were trying to make me tell I was supplying the army.

Q What do you mean that you were supplying the army?

A They were trying to make me declare that I was supplying the army.

Q What army?

A USAFFE.

Q Were you supplying the USAFFE?

A No.

Q Were you supplying any army?

A I did not give to any army.

Q Did Sasaki or anyone else do anything to you during that investigation?

A When I was saying that I do not supply, they continued beating me.

Q Who is "they"?

A Together with his interpreter.

Q Do you mean Sasaki?

A Sasaki and his interpreter.

Q What did they beat you with?

A The handle of an axe.

Q Where and how many times did they beat you?

A On the head twice and on the back also twice.

Q What happened then?

A I did not say anything so they jujitsu'd me and throw me on the floor.

Q Then what happened?

A He asked me to kneel on the wood.

Q Kneel on what?

A On the broken pieces of wood.

Q Continue.

A When I was kneeling and they were forcing me to declare, he placed a typewriter and books on my lap, and he used to step on me and because of this torture I could no longer withstand and I told him "I am going to declare." Then he went around me and kicked me at my hips and I slumped down. When I stood up he brought me to the table and asked me to tell how I supplied the army. Then I told him that they used to ask me to deliver the dry fish to Mambucal. After I had declared and at about a week after, I was present before the presence of Kawamori.

Q Where was this, at "De La Pena house"?

A Yes.

Q Was there an interpreter there with Kawamori?

A Yes, there was.

Q What was the interpreter's name, if you know?

A Yamane.

Q Do you know Kawamori?

A Yes.

Q If you see him in this courtroom, will you point him out?

A Yes.

Q Walk over and point him out.

(The witness left the witness stand and approached the accused's table.)

A This one (indicating).

MR. BLACK: Let the record indicate that the witness pointed out the accused.

Q Did Kawamori talk to you through the interpreter?

A Yes, he talked to Yamane and Yamane talked to me.

Q What was the substance of the conversation?

A Yamane told me that the chief asked him to tell him to point out on the map where he used to deliver the supplies, so I pointed it out on the map.

Q Were you ever taken to the places you pointed out on the map?

A Yes, they brought me after we have moved to the hospital.

Q What hospital are you talking about?

A Private.

Q Is that the Bacolod Private Hospital?

A Yes.

Q Were you imprisoned at that hospital by the Kempei Tai?

A Yes, I was also imprisoned there.

Q When were you released?

A February 20, 1943, with a condition.

Q What do you mean by "with a condition"?

A The condition that they gave me was that I had to report to them.

Q How often?

A Every Saturday what I have seen in Murcia.

Q Did they ask you to act as a spy for them in Murcia?

A Yes, that is what they asked me and that is what I promised them.

Q Did you do it?

A I do not tell them the real truth of what I know.

Q After the first investigation and beating by Sasaki and Yamane, were you beaten or mistreated again?

A I was again beaten at Mamdual when I was brought there.

When were you released?

February 20, 1943, with a condition.

What do you mean by "with a condition"?

SCP(3)cm

Q Do you know who beat you at Mamducal?

A Yes.

Q Who?

A Kawamori.

Q Do you mean the accused, Kawamori, beat you?

A It was not a beating, but he shook me with a fabricated gun.

COLONEL CHASE: Will the reporter read the answer?

(The answer was read.)

MR. BLACK: I will try and clear that up.

Q Tell the Commission exactly what you mean when you say "he shook me with a fabricated gun." By "fabricated gun" do you mean a home made gun?

A It was a home made gun made by somebody in that locality.

Q Describe how he shook you with that gun.

A He was standing when they asked me if it was really true that I delivered the supplies there, and I told them, "yes." They did not believe me because at that time there was one Japanese garrison there. "How could the army get your supply here because it is being guarded by the Japanese?" One of the soldiers pushed me and I was thrown forward. When I was about five meters I felt that there was another piece pointed at me, a piece in my hips. I shouted to Uehara because he was with us as interpreter, "Allow me to finish what I am declaring because if it is a lie you can kill me." Uehara told me that Kawamori does not believe me because here the Japanese are guarding inasmuch as there is a garrison. So I told them that it is not the army that buy from me, but it is the civilians, and the place is

uninhabited, and they could not distinguish as to whom should I sell these goods. So when I told them, they probably believed it because the locality was really uninhabited, consisting of high shrubs and forests.

Q Are you through with your answer?

A There is some more. We were over ninety there and the Japanese continued machine gunning the place, and we slept there that night. In the morning we departed.

Q How many times were you beaten at the De La Pena House?

A Only at the time when I was investigated.

Q The next time you were--withdraw that--. Were you ever beaten at the Bacolod Private Hospital?

A No more.

Q What was the name of that place where you said Kawamori was there?

A In Mambucal, the place where people used to take a bath.

Q Did you see Moises Alipala beaten at the De La Rama House?

A I have not seen him beaten, but when he was tied I saw him.

Q What did he look like?

A When he was brought to the cell, I saw him. He had burns on his legs and arms are dislocated because he had been hung.

Q How could you tell he was hung?

A He told me.

Q Were you and Alipala imprisoned at the Bacolod Hospital?

A Yes.

Q Was Alipala beaten when at the Bacolod Hospital?

A No more.

Q Were you released before Alipala came back?

A Where did he come from?

MR. BLACK: Withdraw that question.

Q When were you released?

A February 20, 1943.

Q Do you know when Alipala was released?

A When we were in the hospital about the middle of January he was brought to Panay.

Q Do you know when he was released from the Bacolod Kempei Tai?

A No.

Q Was he released before you or after you?

A I was released ahead because he has not arrived yet.

Q When was the next time you saw Alipala?

A After their arrival it was about three months after they admit him.

Q Where?

A In Bacolod also.

Q Mr. Gomez, how old are you?

A Forty-six years old.

Q Were you a guerrilla?

A No.

Q Were you a USAFFE?

A I am not also a USAFFE.

Q Did you know why the Kempei Tai detained and arrested you and Alipala?

A I did not know.

Q Did you know why they were beating you?

A Because they believed that we were supplying the army.

Q When you say "they believed" do you mean they suspected?

A Yes, they were suspecting because we had plenty of load in the truck.

Q You were not running away or hiding with the truck, were you?

A No.

Q How big a truck was it?

A My truck is improved, the dual tires at the rear and a long chassis.

Q How many tons?

A More than two and one-half tons.

Q Did Sasaki, Yamaguchi, or Kawamori do anything else to you except what you have already told us?

A No more.

MR. BLACK: Defense may question.

COLONEL CHASE: Just a moment. Before you leave the witness, will you try to clear up definitely what he means by the expression "shook him with a gun"?

MR. BLACK: I will try to do that, sir.

Q Will you describe and explain what you meant when you said, "Kawamori shook me with a gun"?

A When I was investigated and they do not believe my testimony that I give supplies to the army because of the guerrilla war, the Japanese would kill USAFFE because the USAFFE are their guards.

MR. BLACK: Just a moment. I don't think that is responsive. I will move to strike that from the record. I don't see where it has any connection with the record.

COLONEL CHASE: Leave it in the record and try to develop what took place physically.

COLONEL CHASE: That is what I am trying to get at.

Q Will you describe and demonstrate the manner in which Kawamori shook you with the gun?

A Kawamori, Yamaguchi, and the interpreter, Uehara, and another soldier by the name of Oieda were there, and I was there. They were talking in Japanese and they pushed me and I was thrown over there (indicating.) When I was there they shook me at the feet so I shouted to Uehara to allow me to finish my declaration before they shoot me. So Yamaguchi asked me what I have said. So Uehara advised me to come back and continue my declarations. I told them that it is not the guerrillas that got the supplies from me but the civilians.

MR. BLACK: Just a moment. I am trying, as the Commission will appreciate, to get an answer to the question. I will try once more.

Q Did Kawamori point a gun at you?

A I do not know because I turned my back when I was over there.

Q Do you know who the soldier was who pushed or threw you?

A Oieda.

Q Do you know who Oieda is or was?

A If I could see him I could recognize him.

Q Was he a member of the Kempei Tai, do you know?

A Yes, he was also a Kempei Tai.

Q How do you know?

A Because of his arm band.

Q What kind of an arm band?

A There is a mark of MP.

Q What color was the arm band?

A A white band and the letterings are in red.

Q Did you see Kawamori talk to the interpreter?

A Yes, they talked with each other.

Q Did the interpreter then talk to you?

A When they pushed me, he has not spoken to me yet.

Q What, if anything, did Kawamori do to you at that time and at that place?

A When we were arrested he opened his map and asked me to point out Mambucal, and I told him "this is Mambucal."

COLONEL CHASE: I think that is enough. May I try?

MR. BLACK: Yes, sir.

COLONEL CHASE: Who held the fabricated gun in his hand?

A Kawamori.

Q What did he do with it?

A He was holding it.

Q Did he put it against your body?

A When they were talking to me, no.

Q He never touched you with it, is that correct?

A No.

Q When you say he "shook" you with the gun, do you mean that he pointed the gun at you or threatened you or that

he actually did something to your body with the gun?

MR. BLACK: If it please the Commission, it is my interpretation at this time that the word was not "shook" but the word was "shoot."

MR. SIMON: It seems a little improbable to me that there was any shooting in the situation he has described. Perhaps he can tell in his own words what happened.

COLONEL CHASE: I am trying to get the description of the physical actions. Was the word "shoot" rather than "shook"?

INTERPRETER DIANALA JO: That is right--shoot.

COLONEL CHASE: Did he actually shoot the gun so that it went "bang" during this transaction?

A There was no "bang."

Q He held the gun in his hands and you thought he might shoot. Is that what you meant?

A I did not think that he will shoot me.

COLONEL CHASE: Is the Commission satisfied to let the thing rest at that?

(No response)

COLONEL CHASE: Mr. Simon, you may take the witness for cross-examination.

CROSS-EXAMINATION

BY MR. SIMON:

Q How long have you been partners with Mr. Alipala?

A We were together before we were arrested.

Q How long before that time were you partners?

A One month before we were arrested.

Q Did you do your buying and selling as partners?

A What he bought is for himself, and what I bought is for myself.

Q Didn't this fish that you bought go for the supply of the guerrilla armies in the mountains?

A No.

Q How do you know that?

A We did not deliver supplies to them.

Q Didn't you tell the truth to the Japanese when you told them you were not delivering it to the army but taking it to Mambucal?

A I could no longer stand the beating so that I was forced to tell them that.

Q Was Colonel Yamaguchi present when you were investigated the first time?

A When we were in Mambucal he was not present, but when we were in the hospital, he was.

Q When you were there being investigated at the De La Pena House was Colonel Yamaguchi present?

A He was not there.

Q Was Kawamori present when you were investigated there?

A No.

Q Did you complain to Colonel Yamaguchi concerning your mistreatment by the Kempei?

A I could not speak to him.

Q Did you complain to anyone about your mistreatment by the Kempei?

A No, I have not.

Q Did you see Kawamori at any time after you were released by the Japanese in 1943?

A When I was released on February 20, I used to report and I could see him.

Q And for how long a time did you report to the Kempei?

A About four months.

Q Did you report to Kawamori or to someone else at the Kempei headquarters?

A I used to deliver the report to Sasaki.

Q And you did not go to Kawamori's office after February 20, 1943?

A It was only at the time when he asked me to point out something in the map.

Q And at the time when you pointed out something on the map, is that the only time you saw Kawamori? Is that true?

A Many times I have seen him.

Q Did you have any Filipino pesos on your person when you were arrested?

A Yes.

Q Now didn't the people in Bacolod and Silay transact business with "Mickey Mouse" money, --Japanese currency?

A They did.

Q And the guerrillas were the persons who had the Filipino currency and used that to buy merchandise, is that correct?

A We also had them.

Q Did the Japanese permit you to do business using the Filipino peso?

A That was allowed.

Q Where were you on the morning of November 5, 1942?

A I was in Murcia.

Q And were you arrested by the Kempei with your partner on that day?

A I was arrested on November 7.

Q What time of the day?

A More or less, approximately about ten o'clock.

Q Ten o'clock in the evening of November 7?

A Ten o'clock in the morning.

Q Didn't you say on direct examination that you came from Silay to Bacolod late on the afternoon of November 7, 1942?

A We arrived at Bacolod on the sixth, on the afternoon of the sixth.

Q Didn't you state that you were caught with this truck-load of fish when you came back from Silay to Bacolod late on the afternoon of the seventh of November, 1942?

A It is not in the afternoon of the seventh because we were arrested on the following day.

Q Did you have your truck with you when you were arrested on the following day?

A The truck was later on brought to the place of De La Pena.

Q What were you doing at the time you were arrested?

A It was the time when we able to bring our things to Murcia .

Q Were you in your truck at that time?

A No.

Q What fixes that date in your mind?

A When I was arrested it was on the seventh because I know it was the day.

Q Did Alipala tell you when you came to Manila that he would testify that it was on the seventh of November that you both were arrested?

A We were not together when we came here.

Q Didn't you talk this incident over with Alipala before coming to this courtroom?

A We have not discussed about it.

Q Aren't you housed together at the OCCW ?

A We are together.

Q Didn't you discuss with each other the incidents that occurred at that time in Bacolod?

A We talk about the beating that we have experienced.

Q And did you talk about the beatings which you have experienced with anyone else before coming to this courtroom?

A I have also related it to somebody else.

Q Who else?

A My companions in the place where I am staying.

Q And did they relate to you their incidents that happened to them?

A They also told me that they have suffered the same thing under the hands of the Japanese.

Q Was Alipala present when these conversations took place?

A I do not see that he was present because there were many.

Q Do you find that your memory is poorer now than it was before you were captured by the Japanese?

A The same.

Q When you were captured by the Japanese, isn't it true that you were only beaten twice?

A I was beaten twice on the head, twice on the back, and a kick on the hip.

Q And that was all that was done to you by the Japanese?

A That was the only punishment that I received from Sasaki aside from Kawamori.

Q Now what did Kawamori do to you when they brought you to Mambucal.

A When they brought me to Mambucal they won't believe that I used to bring supplies, and so they did that to me.

Q What did Kawamori do to you in Mambucal?

A He shot me with a homemade gun for fishing.

COLONEL CHASE: Spell the word to make sure we have the correct word. Is it "shook" or "shoot"?

INTERPRETER DIANALA JO: S-h-o-o-t.

Q Where did he shoot you?

A On the legs.

Q Are there any marks on your legs from where he shot you?

A Yes, passing through.

Q Will you show us the marks?

(Witness does as requested.)

MR. BLACK: The witness indicated, pointing to his right leg, to a point about six inches above the ankle,

pointing to two round marks back of the right leg about six inches above the heel.

COLONEL CHASE: Mr. Simon, in order to clear this point up, would you object to being interrupted and let Lieutenant Ico take the witness and see if he can clear this point up? Perhaps he can.

MR. SIMON: That is all right with me, sir.

COLONEL CHASE: You can see what we are trying to develop, that is, what sort of a gun it was or what sort of a projectile it fired, and the circumstances under which the witness was shot.

MR. SIMON: Perhaps I could straighten out the question.

COLONEL CHASE: Let Mr. Simon try to clear it up.

Q Will you illustrate where you stood in relationship to Kawamori when this incident happened with the gun? How far was Kawamori from you?

A About one meter.

Q Was he directly to your front?

A We were facing each other.

Q Did he have any weapons in his hand?

A There was the one we got when we crossed the river,-- the gun for fishing.

Q Did you have that gun on your person when you were captured?

A No, we got that from the house of the civilians across the river.

Q What did Lieutenant Kawamori do with that gun?

A Those MP soldiers were the ones that were ransacking the houses along the street. On their return, when we were about to leave, they were bringing that homemade gun for fishing.

Q Did Kawamori stand in front of you and fire that gun?

A No, they were just examining it.

Q Then he did not fire a weapon at you?

A No, not until we went to Mambucal.

Q Where did this incident take place when Kawamori was one meter in front of you and Colonel Yamaguchi was there and they were talking to you?

A On the place where I pointed to him that I used to deliver the supplies to Mambucal.

Q Was that at the house of De La Pena?

A In Mambucal.

Q That was at Mambucal.

A At Mambucal.

Q When he examined the gun did it go off?

A No.

Q Where did you receive that wound on your leg?

A In Mambucal already.

Q And how did you receive that wound?

A When I was pushed by Oieda I was thrown that way (indicating) and I fell piercing my leg.

Q Did a fishing spear pierce your leg to cause that wound?

A Yes, because I fell, but it did not really come out

on the other side.

Q Is that clear to the Commission as to what happened; that he was pushed apparently up against this fishing spear and it went through his leg and he pulled it out.

COLONEL CHASE: Apparently that is correct.

It is now 11:30 and the Commission will recess until 1300, at which time the defense may cross-examine.

(The Commission recessed at 1130 hours to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Let the record show that when the Commission reconvened all the members of the Commission, the prosecution, defense counsel, the accused and his personal interpreter were present.

The witness is reminded he is still under oath.

COLONEL CHASE: Before proceeding for the sake of clearing up the point with regards to the injury or wound sustained by the witness, Manuel Gomez, to which he testified this morning as having been inflicted by a fabricated gun, it has been established in conference during the noon recess and is agreed and stipulated by the prosecution and defense that the fabricated gun was a cross-bow like device used to propel a **sharp** dart or harpoon for fishing; that the defendant, Shuji Kawamori, was holding this device in his hand at the time the witness, Gomez, was thrown or pushed toward the defendant by another Japanese soldier. At this time he appears to have sustained the wound regarding which he testified but there is no showing to indicate that the infliction of this wound by the defendant, Kawamori, was either premeditated or intentional on his part. Is that satisfactory to the prosecution and defense?

MR. BLACK: It is satisfactory with the prosecution.

MR. SIMON: It is satisfactory with the defense.

COLONEL CHASE: Proceed.

MANUEL GOMEZ

a witness for the prosecution, having been previously duly sworn, testified further as follows: through Interpreter Dianala Jo:

CROSS-EXAMINATION (Cont'd.)

BY MR. SIMON:

Q Do you know why Alipala was sent to Panay in January 1943?

A I do not know.

MR. SIMON: No further questions.

COLONEL CHASE: Further questions by the prosecution?

MR. BLACK: No further questions by the prosecution.

COLONEL CHASE: Questions by the members of the Commission?

(No response)

COLONEL CHASE: There appearing to be none the witness is excused.

(Witness excused)

MR. BLACK: The prosecution will call as its next witness Cresencio Federez and he will testify in support of Specification 5 and I believe in support of Specification 4.

CRESENCIO FEDEREZ

a witness for the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BLACK:

Q Do you understand and speak English?

A Yes, sir, but I prefer to testify in Visayan.

MR. BLACK: The interpreter will ask you the questions in Visayan and you will answer in Visayan.

THE WITNESS: Yes, sir.

(The following testimony translated by Interpreter Dianala Jo.)

Q What is your name?

A Cresencio Federez.

Q What is your nationality?

A Filipino.

Q How old are you?

A Thirty-eight.

Q What is your occupation?

A Merchant.

Q Where did you live during the Japanese occupation?

A In the barrio of Cansilayan, Murcia, Occidental Negros.

Q Did you live there in 1943?

A Yes.

Q How about 1944?

A In 1944 I went to Bacolod.

Q When in 1944?

A On January 20, 1944.

Q At that time what was your occupation or position?

A I had no business when I went to Bacolod.

Q Did you hold any office at that time?
A Yes.
Q What office did you hold?
A I was a delegate in the Barrio of Cansilayan, Occidental Negros.
Q What sort of a delegate?
A I was appointed as a delegate for that barrio.
Q Who appointed you?
A Jose Santiago, Junior.
Q Who was Jose Santiago, Junior?
A As far as I know he was the president of Murcia, Occidental Negros.
Q You mean he was the President of the Filipino-Civilian Government at the time?
A Yes, in the mountains.
Q Were you arrested by the Japanese?
A Yes.
Q Do you know who arrested you?
A Yes.
Q Tell us who.
A Naka and Interpreter Uehara.
Q Who is Naka and who is Uehara?
A I do not know but they arrested me.
Q Where did they take you?
A They brought me to the Bacolod Kempei Tai in Bacolod.
Q Were you imprisoned there?
A Yes.
Q When you were brought there did you see any other Filipinos at the hospital?

A Yes.

Q Do you remember their names?

A Many that I know.

Q Do you know an attorney by the name of Emilio Parreno?

A Yes, I know him.

Q Was he one of the men you saw at the Kempei Tai at the hospital?

A Yes, because when I was imprisoned he was also brought to the prison.

Q What happened to you at the Kempei Tai office at the hospital?

A When I was there they brought me upstairs in the afternoon for investigation.

Q Do you remember the date that you were arrested?

A Yes.

Q What date?

A January 20, 1944.

Q You said they took you for investigation. Tell us about the investigation.

A When they brought me they investigated me and before I was investigated they beat me.

Q Who beat you?

A Naka.

Q Who investigated you?

A Naka also.

Q Tell us how he beat you and with what?

A He beat me with a stick and split wood.

Q How long was the stick?

A Like this (indicating).

MR. BLACK: Let the record show the witness indicated the stick to be about 30 inches.

Q How high was it?

A Like this (indicating).

Q Can you indicate with your fingers about how thick the stick and the split wood were?

A Like this. The split wood is as wide as this (indicating).

MR. BLACK: Let the record show the stick is about one inch to one inch and a half in diameter and the split wood is about two inches wide.

Q On what parts of your body did he beat you?

A Most of the time on my hips and here on my shoulder (indicating).

Q What was Naka questioning you about?

A He asked me if I am the delegate for Cansilayan?

Q What did you tell him?

A First I lied to him. But later on when I could no longer withstand the torture because I sometimes become groggy I admitted that I was the delegate for Cansilayan.

Q After you admitted, what happened?

A He asked me of the different places we used to go and I told him that I do not go to the mountains myself but I stay in the lowland.

Q Did Naka do anything else to you except what you have already told us?

A He took off my undershirt and tied my neck and tightened it until my tongue came out.

Q What happened then?

A He pinched my toes with the pliers while they are asking me to tell what more I know.

Q What else?

A He continued beating me.

COLONEL CHASE: Will you have him explain and illustrate just how he was tied? There was something said about his being tied by the neck if I understood correctly.

Q Tell us how you were tied around the neck.

A When I arrived there they took off my undershirt and then rolled it and tied it on my neck and tightened it.

Q Did anyone hold the shirt when it was tied around your neck?

A Both Uehara and Naka.

Q How did they hold the shirt?

A They both held it at the end while it is tied to my neck and pulled, each one pulled the other. (Illustrating)

Q Each one was pulling on one end of the shirt?

A Yes, one here (indicating) and one on the other side (indicating).

Q How long, an hour, two hours, or a day?

A Approximately three hours.

Q While the shirt was tied around your neck what was happening?

A They slapped me and boxed me and kicked me.

Q By "they" you mean Naka and who?

A Naka and Uehara.

Q Was Uehara the interpreter?

A Yes.

Q Where did this stick and this split wood that you were beaten with come from, do you know?

A Right there in the room there are sticks and pieces of wood placed there.

Q What room was this?

A A big room upstairs. It is approximately as indicated. (indicating)

Q Approximately as indicated how?

A From here (indicating) up to there (indicating).

Q From here (indicating) to the end of this room?

A Yes.

MR. BLACK: Let the record show the witness indicated about 25 feet.

COLONEL CHASE: For the purposes of comparison the posts and trusses of these prefabricated buildings are about nine feet apart.

MR. BLACK: That is 27 feet long.

Q And how wide?

A Like this (indicating) but a little bit longer (indicating).

Q About how much wider?

A I think about like this (indicating).

MR. BLACK: Shall we say 27 by 20?

MR. SIMON: It is agreed.

Q Do you know what that room was used for?

A I do not know.

Q What did you see in that room?

A I have not seen anything except those sticks and pieces of wood.

Q Did you see any ropes hanging from the ceiling in that room?

A I have not seen.

Q You said that the shirt was kept around' your neck for about three hours?

A I do not mean that it was staying there f'or three hours but within that period they would tighten it, loosen it, beat me and loosen it and repeat it.

Q Did you suffer any pain while this was happening?

A Yes, because at times I fell down on the floor and they poured water on me.

Q What happened after that?

A After that when I had been perspiring too much they took hold of me, both of them, and brought me downstairs.

Q Did anything happen to you on the following day?
A Yes, sir.
Q What happened?
A They brought me again upstairs and investigated me.
Q Did they do anything to you during that investigation?
A The same thing, torturing me.
Q What do you mean by "torturing" you?
A They beat me; they kicked me; they slapped me.
Q Who are "they"?
A Naka and the interpreter.
Q Who was the interpreter?
A Uehara.
Q How long did this last?
A About two hours.
Q Were you investigated and beaten again after that day?
A Yes.
Q When?
A They had one day lapse. Then they investigated me again on the following day.
Q Who investigated you on that day?
A The same persons.
Q Did they also beat you then?
A They beat me likewise but not as much as the first. and the second.
Q Why were they beating you?
A Because they were asking me where the granaries of rice are, and I could not tell anything so they beat me.
Q What happened after that day?
A Then after that they placed me again back at that cell.

Q How long did you remain in your cell at the Bacolod Hospital?

A More than five months.

Q Who else was with you in the cell?

A We were plenty because every day there are those coming in and going out, - coming in and going out.

Q Do you know a Vicente Torres?

A Yes.

Q When did you first get to know him?

A When he was taken in in March.

Q You mean when he was arrested in March?

A No, when he was placed inside our cell in March.

Q What year?

A 1944.

Q Did you know him before he came to the cell?

A No.

Q How did you learn his name?

A I know of him because everytime he was brought upstairs his name is called.

Q Who called his name?

A The guard of our cell.

Q What did he say?

A "Vicente Torres come out."

Q Did he say that in Japanese or Visayan?

A When they called the name "Vicente Torres" they opened the door and Vicente Torres came out.

COLONEL CHASE: Excuse me, Mr. Black, is there any Specification that refers to the name of Vicente Torres?

MR. BLACK: Yes, sir, No. 5.

Q Will you describe Vicente Torres?

A Vicente Torres?

MR. BLACK: I withdraw that question.

Q Can you tell how old Vicente Torres was?

A He is still young.

Q About how old?

A About twenty years old.

Q How tall was he?

A He was a little bit shorter than myself.

Q How tall are you?

A Five feet and two inches.

MR. BLACK: He is about five feet five inches.

MR. SIMON: He is about five feet four inches,
five feet - four.

MR. BLACK: Vicente Torres would be about five -
two according to his testimony. He said he was a little
shorter than he is.

MR. SIMON: Less than five feet. He would be
about four feet ten.

Q Was Vicente Torres over five feet or under five feet?

A I could not tell but all I know he is a little bit
shorter than myself.

Q About how much did he weigh, if you can tell?

A I cannot tell because I myself don't know how much
I weigh.

Q Was he fat or thin?

A A little bit thinner than myself.

Q How much do you weigh?

A I do not know.

Q Did Vicente Torres ever talk to you while in the Kempei Tai jail at the Hospital?

A No.

Q Was Vicente Torres questioned while at the Hospital?

A Yes.

Q Tell us what happened to Vicente Torres?

A When he was investigated?

Q When he was investigated and everything else that you know.

MR. SIMON: Defense will request that the examination of this witness proceed by question and answer in the direct examination of this witness on this particular portion of his testimony. The last question is too indefinite and vague as it now stands.

COLONEL CHASE: Read the last question please.

(The reporter read the last question.)

MR. SIMON: I object as being too vague and ambiguous.

COLONEL CHASE: Suppose you ask him first if he was investigated, as a single question, and develop it from that.

MR. BLACK: I withdraw the last question.

Q Was Vicente Torres investigated?

A Yes.

Q Was he tortured?

MR. SIMON: I object to that question.

MR. BLACK: I will withdraw the question.

Q Was he beaten?

MR. SIMON: I object to that question until a foundation is laid. It is too vague and ambiguous and until a foundation is laid the defense will object.

COLONEL CHASE: I think the point is well taken to establish the ground.

Q Did you see Vicente Torres beaten?

A I have not seen him because he was brought upstairs, and I was left in my cell.

Q Did you and Vicente Torres ever leave the cell at the Hospital?

A Yes.

Q When?

A On the first week of March.

Q And where were you taken?

A On the night of March 11th at about ten o'clock we were both taken from our cell.

Q What year was this?

A 1944.

Q Who took you?

A Soldiers.

Q What soldiers?

A Soldiers of the Kempei.

Q Who were they?

A I do not know, but they are soldiers of the Kempei.

Q Where did they take you?

A When we were out they tied us and loaded us on the truck.

Q Do you know the accused, Kawamori?

A Yes.

Q Will you point him out. Walk over and point him out.

A He is there (indicating).

MR. BLACK: The record will show that the witness pointed out the accused.

Q Did Kawamori accompany you when you left the cell?

A When we were in the truck he was there with us.

Q Who was in the truck?

A He, Naka, and six MP soldiers.

Q Who is "he"?

A Kawamori.

Q Where did you go in the truck?

A We went to the Provincial High School.

Q Was Vicente Torres in the truck with you?

A Yes.

Q What happened at the Provincial High School?

A When we arrived there the truck stopped. Then we waited for the other trucks yet and when there are the other trucks we proceeded to Barrio Sum-ag.

Q About how long did you take to get to Barrio Sum-ag in the truck?

A We could not tell because the truck was running slowly and Sum-ag is about ten kilometers from Bacolod.

Q Were any other Filipinos put on your truck when you stopped at the Provincial High School?

A When we were at the Provincial High School, because our truck stopped right near the door, I saw two men tied sitting near the door.

Q What happened to those two men sitting at the door?

A Those two men were also in the truck.

Q In the same truck you were on?

A Ours is different. These men were loaded on a different truck.

Q How long did you wait at the Provincial High School?

A About one half hour more or less.

Q And you then left by truck?

A We did not leave. We were still sitting in the truck.

Q Did you leave the High School in a truck?

A Yes.

Q And where did you go?

A We proceeded to Sum-ag.

Q How many trucks were there?

A Plenty, I could not count them.

Q Who was in the same truck with you when you reached your last mentioned place?

A Those companions of mine in the truck were the same persons with me also.

Q Who were they?

A He, Naka, and six soldiers, with Vicente Torres.

Q By "he" do you mean Kawamori?

A Yes, he is the one with us in the truck.

Q What happened when you got to this place?

A When we arrived there we were unloaded, and we proceeded to the mountains following the load going to Buan-an.

Q What happened then?

A When we were near TalotogBarrio we sat down near the canal together with the rest of the soldiers.

Q Were you free or tied?

A We were tied.

Q Were you tied together or separately?

A Separately. They were tied and I was also tied.

Q How were you tied?

A We were tied with our hands at our back and the Japanese is holding the rope.

Q Who were the Filipinos with you at the time?

A In our group we only --

Q "We" are who? Just a minute, - the Filipinos.

A In the truck, myself, Torres, he, Naka, and the soldiers.

Q Did you get off the truck?

A Yes, at Sum-ag we went down the truck.

Q And what did you do then?

A Then we walked going to Abanan.

Q How far did you walk?

A I could not tell but next to the Barrio Talotog we stopped there.

Q And then what happened?

A When I sat down I also saw the two men that I had seen in the High School.

COLONEL CHASE: Will the reporter read the last answer.

(The reporter read the last answer.)

Q Where did you see them?

A Right in front of us because we were on the other side and they were on one side.

Q You mentioned something about a canal or a ditch, is that right?

A Yes, the canal on both sides of the road. We were sitting on one canal on one side and the others on the other side.

Q Were there any mountains nearby?

A No.

Q Were you sitting on the same side with Torres?

A Yes, he was at my side.

Q He was sitting next to you?

A Yes.

Q Where were the two men who had been picked up at the Provincial High School? Where were they sitting?

A On the front, on the other side of the canal.

Q About far away?

A From here to the road because it is small.

MR. BLACK: About seven or eight feet.

MR. SIMON: More or less.

Q What happened then?

A I have seen that one of the men was brought first.

MR. SIMON: The defense is going to object to this line of testimony as being incompetent, irrelevant and immaterial and is not included within the Specifications and Charges, -- the testimony relating to these two unidentified men.

MR. BLACK: If it please the Commission, it is true and the reason the prosecution is attempting to bring this out is not to prejudice the Commission or to add to the Charge and Specifications, but because this is all one

incident and because it will help to clarify. At the same time it is easier for the witness because he cannot separate, or at least readily, and I will consent, if necessary, at the end of his testimony to strike out any part that the Commission feels is incompetent or irrelevant.

MR. SIMON: Sir, the defense might suggest that the prosecution proceed and ask the witness directly what did he see happen at that place, if anything, and direct his testimony along that line. This would save a great deal of time.

COLONEL CHASE: The objection is not sustained. Proceed to have him tell us what happened there.

Q Continue.

A Then they stopped as far as that corner post there.

Q Which post?

A That corner post of that building.

Q This barrack here?

A Yes.

MR. BLACK: A distance of about forty feet.

MR. SIMON: Let the record indicate the witness gestured indicating a distance of about fifty feet.

MR. BLACK: I don't know if that is exactly fifty feet.

A (continuing) Then I saw one of the soldiers draw his sword and struck him this way (indicating) --

MR. SIMON: The defense is going to object to this line of testimony on the ground that it is incompetent, irrelevant and immaterial and it is prejudicial, because the testimony is now relating to activities of soldiers, and we

have at this same area men of the Yamaguchi Battalion who joined the party at the Bacolod High School, - the Provincial High School, and anything that those men did has no bearing against the action of the accused in this case.

COLONEL CHASE: There is no evidence in the record as to where these men came from. It is a matter for the Commission to determine as to whether those men were under the command of the defendant or not, and we cannot determine that except by a clear statement of the circumstances.

MR. SIMON: Sir, the record will already show that they stopped at the High School in that truck, and at that time a bunch of those soldiers -- so many he could not count them -- came up. They all dismounted from the truck and went up to Barrio Talotog. Now he is testifying what some soldiers did. It is incompetent, irrelevant and immaterial until the prosecution connects those soldiers with a unit commanded by Lieutenant Kawamori. Lieutenant Kawamori is not responsible for everything that went on on the Island of Negros. He only commanded six Kempei Tai men.

Q What happened to the first man?

MR. SIMON: Sir, the same objection.

COLONEL CHASE: Objection is not sustained.

A When he was stabbed with a sword there were other soldiers waiting to pierce him with a bayonet.

Q Was he killed?

MR. SIMON: I object to that as calling for the conclusion of the witness. His testimony ought to be confined to what he saw.

COLONEL CHASE: Objection sustained.

Q Did you see him killed?

MR. SIMON: Same objection, sir.

COLONEL CHASE: Objection sustained.

Q What happened to the first man?

A When they struck him I saw him fall.

Q Then what happened?

A Then they left to go to another person. Then when they returned to that other person I bowed my head because I was too much afraid when I saw that other person.

MR. BLACK: (To Interpreter Dianala Jo) Will you ask him that again?

A When they returned, I bowed my head because I was afraid to see the dead person that they had killed.

MR. SIMON: The defense moves to strike the last portion of this witness' answer starting with the word "I was afraid to see the dead person that they had killed" as being a conclusion of the witness. All he knows is that he saw the man fall.

MR. BLACK: I don't think it is a conclusion of the witness. I think it is a fact whether a man is or is not dead.

COLONEL CHASE: That portion of the last statement of the witness having to do with a man being killed will be stricken from the record and the Commission is directed to disregard that portion. I would like to have the reporter read back that portion of the answer, and I will indicate the exact point of the answer that should be stricken.

(The reporter read back last answer.)

COLONEL CHASE: Strike everything after the word "afraid."

Q What did they do to the first man?

MR. SIMON: The defense will object to that as being incompetent, irrelevant and immaterial. The prosecution is now actually directing the witness' words about the first man, which we know has no bearing on this case. The defense will object to it: being incompetent, irrelevant and immaterial.

MR. BLACK: I will withdraw that question.

Q What happened to the two men who were picked up at the Provincial High School?

MR. SIMON: Same objection.

COLONEL CHASE: That objection is sustained for the present, dependent upon the prosecution being able later to show any connection between what happened to those two men and anything charged in any of the Specifications in this case.

MR. BLACK: There is nothing charged in any of the Specifications in connection with these two men.

Q What did they do with Vicente Torres?

A After they had taken the other person they came and took Vicente Torres beside me.

Q Who is "they"?

A The five soldiers, this man and Naka.

Q Who is "this man"?

A It is Kawanori.

Q Where did they take Vicente Torres?

A Because I was turning my back from the canal they brought him at my back.

Q Where did they take him?

MR. SIMON: I object to this question. He has already been asked and answered this question, -- that he had his back turned, and he didn't know where they took them. The question has already been answered.

MR. BLACK: I don't know whether that was the answer.

MR. SIMON: Will the reporter read the answer, please.

(The reporter read the answer.)

COLONEL CHASE: He can answer, if he knows.

A Because I was turning my back away they took Vicente Torres on this direction (indicating).

COLONEL CHASE: Do you mean by that the direction away from the direction in which you were facing yourself?

A Yes, because I was facing this way (indicating), and they took Vicente Torres that way (indicating).

COLONEL CHASE: You may proceed, Mr. Black.

Q Do you know how far they walked?

A I do not know, only I could hear their voices.

Q Whose voices could you hear?

A The voice of Vicente Torres saying that he should be excused because he won't repeat the same things.

Q Did you hear anything else?

A The last I heard was only a groan.

Q What else happened?

A When they returned they wiped their swords.

Q Who is "they"?

COLONEL CHASE: Just a minute, I didn't get all of that last answer.

(The reporter read the answer.)

Q Who were "they"?

A Kawamori when he arrived, he wiped his sword on the grasses, then on his pants and returned it to the scabbard.

Q Who else was with Kawamori when they came back?

A The same, Naka and the five soldiers were there.

Q By "the same" do you mean they were the same soldiers who took him away originally?

A Yes, the same soldiers because they were our only companions.

Q What weapons did the Japanese soldiers who were with Kawamori have?

A Rifles only.

Q Did they have bayonets?

A Yes.

Q What did you see them do with their bayonets when they came back?

A When they arrived they took the bayonet off from their guns and wiped them on the grass and returned them to their scabbard.

Q Before they took Vicente Torres, did they do anything with their bayonets?

A No.

Q Then what happened to you?

A After that somebody shouted. Then we went again.

COLONEL CHASE: The Commission will take a short recess at this time.

(Short recess)

COLONEL CHASE: The Commission is in session.

MR. BLACK: May we have the last question?

(The last question was read.)

Q Where did you go?

A To the mountains, direct to the Barrio of Abuan-an.

MR. SIMON: Defense requests information as to which Specification this testimony going in will be directed after they leave this area?

MR. BLACK: It is difficult for the prosecution to state what specifications his testimony will be in support of. It will be either 5 or 3 or both.

MR. SIMON: After they leave this area?

MR. BLACK: That is right.

COLONEL CHASE: I think Mr. Black was in error in stating that it would relate to 4. It actually is 3 and 5, is that correct?

MR. BLACK: That is correct.

COLONEL CHASE: Will there be any testimony from him which will relate to 4? So far he has not testified to 4 at all.

MR. BLACK: No, he will not testify to 4 other than what he has already said.

COLONEL CHASE: Proceed.

MR. BLACK: May we have the last question?

(The last question was read.)

Q Did anything happen then?

A Yes.

Q What happened then?

A When we were sitting at kilometer 18 they said that we should go southward.

MR. SIMON: Defense would request at this time that the prosecution clarify this word "we" whether this same group that started from the Bacolod High School is

the "we" referred to by the witness as they continue and leave this area where these three men were left off.

COLONEL CHASE: Will you clarify that point, Mr. Black?

Q Who was with you at kilometer 18?

A He.

Q Who is "he"?

A Kawamori.

Q Who else?

A Naka, and the six other soldiers and Uehara.

Q The six soldiers and Uehara, were they the same soldiers that left with you from Bacolod?

A Yes.

Q And they were with you all the time?

A Yes.

Q Was Vicente Torres with you?

A When we were at kilometer 18 Vicente Torres was no longer with us. I was the only one left. Then we returned toward the south.

Q Where did you go?

A I do not know the name of the place.

Q Did you get to any particular place?

A When we arrived there we returned back still going the other way. When we arrived at a certain place there were plenty of houses and they awakened the civilians. When they were with the civilians they asked them as to where was the house of Doctor Aurelio. After some tortures were received by the civilians they pointed to the house of Doctor Aurelio.

MR. SIMON: Sir, defense moves to strike from the record the reference of the civilians being tortured at this time and also to the reference made to Doctor Aurelio as it is not included in the Charge and Specifications.

MR. BLACK: I will concede that the torturing of civilians be stricken out but that the name Doctor Aurelio be left in subject to connection. There is nothing charged in the specifications against the accused in connection with Aurelio. It is merely for the purpose of corroboration by other witnesses. It is for that reason that I asked him the question to which this answer was made.

COLONEL CHASE: If that is the basis for the question you may continue for the time being.

MR. BLACK: This witness may not necessarily develop the point. I will have other witnesses or evidence along that line.

Q Did you ever see Vicente Torres again?

A No more.

Q Do you know what happened to him?

A When they returned after they took away Vicente Torres they were bringing with them the rope that was tied to Vicente Torres.

MR. SIMON: Will the reporter read the question?

(The question was read.)

Q When Kawamori, Naka, and the other soldiers took Vicente Torres, was he tied with a rope?

A Yes.

Q When the soldiers came back after you heard the groan and other shouts or words did any of the Japanese soldiers have a rope?

A They were bringing the rope that was tied to Vicente Torres.

Q Do you remember how Vicente Torres was dressed?

A Yes.

Q What was he dressed in?

A He was wearing short pants, khaki and his under shirt is red. His shirt is like this (indicating), also khaki.

MR. SIMON: Could I have that answer?

(The answer was read)

Q What was the color of his under shirt?

A Red.

Q Before Vicente Torres was taken away from the place where you were sitting did he speak with you?

A Yes.

Q What if anything did he say to you and what if anything did you say to him?

A We were whispering to each other saying that whatever may happen to us, whoever ~~will survive~~ should inform our family and he told me of his father, Enrique Torres, and I told him also the name of my wife in case I die.

Q Did you know Vicente Torres' father?

A No, not until lately when I tried to see him.

Q Did you ever see him?

A Yes, I saw him after one month from the landing of the Americans.

Q Did you tell him what had happened to Vicente Torres?

A Yes, I told him that he was killed and also of the place where he was killed.

MR. SIMON: Defense moves to strike this last answer merely stating in conversation form the conclusion of the witness.

MR. BLACK: If it please the Commission, this is an answer. He is stating what he told.

MR. SIMON: It is incompetent, immaterial and irrelevant -- conversations after the Americans landed in 1945.

COLONEL CHASE: The objection is not sustained.

Q Did Vicente Torres' father tell you anything?

A He did not tell me anything but he gave me a note to be brought to the War Crimes.

Q Did he tell you anything about his son, Vicente Torres?

A None.

Q Did you see Vicente Torres?

A No more.

Q How many times were you beaten and investigated by the Kempei Tai at the hospital?

MR. SIMON: Defense objects to that as being repetitious.

COLONEL CHASE: Objection not sustained. You may answer.

A I was investigated three times and for the first and second time I was beaten heavily but on the third time it was a little bit lighter.

Q When were you released by the Kempei Tai?

A About the end of June.

Q What year?

A 1944.

Q Were you ever given a trial by the Kempei Tai?

A No.

MR. SIMON: Defense requests that he ask if he understands what a trial is. It should be understood that all trials are not conducted before a military commission.

Q Do you know what is meant by the word "trial"?

A Yes.

Q Were you ever given a trial by the Kempei Tai?

A No, only two of them were investigating me.

Q Do you know whether Vicente Torres was ever given a trial?

MR. SIMON: Objection. No foundation has been laid to show that this witness is in a position to know whether Torres ever had a trial.

COLONEL CHASE: Objection not sustained.

A None.

Q By "none" do you mean he was not given a trial?

MR. SIMON: Defense objects to that as leading.

COLONEL CHASE: Will the reporter read the question back?

(The question was read)

COLONEL CHASE: It is leading unless you qualify the question by asking do you ~~or~~ do you not know. Rephrase the question.

MR. BLACK: I will withdraw that question and rephrase it.

Q When you said "none" did you mean he was not given a trial or that you don't know?

A In the Kempei Tai there is no trial. Their trial is beating.

COLONEL CHASE: Continue and get a direct answer to your question, Mr. Black.

(To interpreter) Tell the witness to answer the question which Mr. Black asked him without any comment or explanation.

(Translated to the witness by Interpreter Dianala Jo.)

COLONEL CHASE: Mr. Black, repeat your question.

Q Do you know whether Vicente Torres was given a trial by ~~the~~ ~~Kempel~~ Tai?

A None.

Q While you were imprisoned by the Kempel Tai at the hospital do you know whether any Filipino was given a trial?

A None.

COLONEL CHASE: Do you mean by your answer that none was given or that you do not know whether or not any trial was given?

(Translated to the witness by Interpreter Dianala Jo.)

THE WITNESS: (Through Interpreter Dianala Jo)

A None at all that I know of.

Q Going back to the point when Vicente Torres was taken by Kawamori, Naka and the other soldiers, was there anything said by the Japanese or was there anything read by the Japanese?

A None.

MR. BLACK: Defense may inquire.

CROSS-EXAMINATION

BY MR. SIMON:

Q Were you a guerrilla in 1943 and 1944?

A I am not a guerrilla.

Q What was your duty as a delegate, as the barrio delegate?

A My duty is when there are happenings in the barrio we fix them up.

Q Do you mean that if the Japanese troops move into a town that you report this information to someone?

A No.

Q What type of happenings do you fix up?

A Our duty is that when the army comes to the barrio asking where the rice is we point it out to them.

Q Now, which army do you have reference to the USAFFE Army?

A The guerrilla army.

Q In other words, did the barrio delegate serve as information posts for the USAFFE Army?

A Yes.

Q Do you also supply the guerrillas with food?

A Yes, we do?

Q Do you supply the guerrillas with intelligent information?

A No, I do not give any other information except to give them food.

Q Now, what was your reason for going to Bacolod on January the 20th, 1944?

A It was a fiesta and it had been for a long time that I had not gone to Bacolod so I went there to visit some of my relatives.

Q Didn't Jose Santiago send you to Bacolod on that fiesta day to get information?

A No.

Q Wouldn't you disclose, as a barrio delegate, any information that you secured concerning rice and the supply of food for the USAFFE force that were available?

A Within my jurisdiction they get rice but outside of my jurisdiction they do not.

Q Was it the barrio delegate's duty to help the Japanese forces?

A No.

Q Were you supposed to harm the Japanese forces?

A No, because I do not have also arms.

Q Did you know Moises Alipala?

A Yes, because he is from Murcia before.

Q Didn't he supply fish and food for the USAFFE forces?

A I do not know that.

Q Did you know Manuel Gomez?

A Yes.

Q Didn't he supply fish for the USAFFE forces?

A I do not know.

Q As barrio delegate wasn't it your duty to learn where sources of food were?

A All I do is to be informed of the sources of the food within my jurisdiction and aside from that I have nothing to do.

Q To whom do you give the information that you would discover?

A Only the production within the barrio where I am is the one I am responsible and aside from that I am not responsible.

Q To whom are you responsible?

A All the farmers within the barrio. I could get rice.

Q What would you do with all this rice that you could get? To whom did you deliver it?

A We give it to the army.

Q Do you mean the USAFFE Army?

A Guerrilla Army.

Q And did you also secure from Manuel Gomez or Moises Alipala fish that you could give to the army along with the rice?

A No.

Q Who was in charge of getting fish for the army?

A I do not know.

Q Can you give us a description of Vicente Torres?

A Vicente Torres is white, shorter than myself, and thinner than myself. His hair is a little bit reddish.

Q Did he wear glasses?

A None.

Q Did he have a mustache?

A None.

Q Were there any distinguishing marks about him?

A There is nothing except the scars at his back.

Q Were those scars very noticeable?

A Yes.

Q When you went out on this expedition when you left the high school, how many soldiers, Japanese soldiers, were there in the group?

A Plenty.

Q Were there 200 or more?

A I could not count because it was night, evening.

Q How many trucks were used to haul all of these soldiers?

A Plenty of trucks.

Q Was Colonel Yamaguchi there?

A Yes.

Q Were all his company officers there?

A I do not know.

Q Did Colonel Yamaguchi remain with this group until you arrived at the 18 kilometer mark?

MR. BLACK: If it please the Commission, I would like the defense to show the time and place when Yamaguchi was there.

MR. SIMON: Defense has placed Yamaguchi with the expedition when they started out from the high school.

A At the very beginning I did not know, not until we arrived at Kilometer 18 did I know he was there.

Q How many officers were with Yamaguchi?

A I do not know because I do not know any officers aside from the Kempeis.

MR. SIMON: Defense has no further questions.

COLONEL CHASE: The Commission will recess until 0830 tomorrow morning, 6 November.

(The Commission adjourned at 1500 hours to reconvene at 0830 hours, 6 November.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

Shuji KAWAMORI

PUBLIC TRIAL

VOLUME III

PAGES 190 TO 271, INCL.

DATE: 6 November 1946

COPY NO: 10

MANILA, P. I.

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.



JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)
vs)
Shuji KAWAMORI)

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
6 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP,
President and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WERLINGER, TC
CAPTAIN HARLYN W. LACEY, CAV (QM)

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FOR THE PROSECUTION:

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SECOND LIEUTENANT DEMETRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, CS, Chief Defense Counsel
MR. OTTO SCHULTZ, CS, Assistant Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTEO DIANALA JO)
ROGELIO CATANJAL) ILONGO (VISAYAN)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

I N D E X

WITNESSES

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EXHIBITS

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 6 November, 1946, in Court No. 3, High Commissioner's Residence, Dewey Blvd., Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The record will show that when the Commission reconvened, all members of the Commission, the prosecution, defense counsel, the accused and his personal interpreter were present.

The witness is reminded that he is still under oath.

(Interpreter Dianala Jo translated to the witness.)

CRESENCIO FEDEREZ

a witness for the prosecution, having been previously duly sworn, testified as follows through Interpreter Dianala Jo:

CROSS-EXAMINATION (Cont'd.)

BY MR. SIMON:

Q Do you recall on what day Torres was arrested?

A I could not remember, but he was placed in the cell on the first week of March.

Q Do you know where he was brought from?

A No.

Q Did you hear that he had previously been confined at the Bacolod High School by the Yamaguchi Battalion?

A I have not, no.

Q Did Vicente Torres tell you that he was captured at Kabankalan by a patrol of the Yamaguchi Battalion?

A No.

Q Did you ever learn that to be a fact from anyone?

A No.

Q Did you ever learn that Vicente Torres was captured carrying arms?

A No.

Q Do you know whether Vicente Torres was a guerrilla?

A I do not know.

Q Did you ever hear of a Captain Torres, a famous guerrilla leader of Negros?

A No.

Q When you first met Enrique Torres, under what circumstances was that?

A I saw him when he was already the Chief of Police of Bacolod.

Q Wasn't Enrique Torres leading a group of guerrillas during the Japanese occupation?

A I do not know.

Q Didn't he come into the City of Bacolod at the time of the liberation with the American forces?

A I do not know.

Q How long have you lived in Bacolod?

A On the day when I was arrested, and when I was released.

Q Were you acquainted with any of the guerrilla activities on Negros Island?

A I am not with the guerrillas on Negros.

Q Are you familiar with the names of the great guerrilla leaders that operated on the island during the occupation?

A Yes.

Q Didn't you learn that Enrique Torres was one of the great

guerrilla leaders on that island?

A I do not know.

Q Did Vicente Torres tell you that he operated with his father on some activities?

A I do not know.

Q Did you have any discussion with Vicente Torres while you were both confined by the Kempei Tai?

A No.

Q Did you talk to Vicente Torres at all during the time you were arrested and the time you were released by the Kempei Tai?

A Never, only at the time when he was taken to be killed.

Q Did you hear the Japanese soldiers say that Torres was killed by beheading?

A I have not heard.

Q What do you imagine the thud was that you heard that night when you stopped by the canal?

MR. BLACK: If the Commission please, I don't think he used the word "thud."

MR. SIMON: I believe the record will show he said he heard a "thud."

COLONEL CHASE: No, he said he heard a groan.

MR. SIMON: I will withdraw the question.

Q Did you hear any shots fired that night near the canal where they stopped and took Vicente Torres away?

A No.

Q Did you ever see the body of Vicente Torres after that night?

A No.

Q At what time did the group leave the Kempei headquarters?

A After ten o'clock, more or less.

Q On what day?

A Saturday, March 11, 1944.

Q Ten o'clock, was that in the morning or in the evening?

A At night.

Q What fixes that date in your mind?

A That night is memorable to me because it was on that night where I saved my life.

Q And didn't you save your life by serving as a guide for the Yamaguchi Battalion on that campaign?

A No.

Q How did you save your life?

A I do not know how I was saved.

Q Weren't you the only Filipino of the group that was taken on that campaign that was brought back?

A In the group of the Kempei Tai, Aurelio and myself were together. In the other group there were plenty of persons, but I do not know where they were taken.

MR. BLACK: If it please the Commission, I don't think that is responsive. While I have no objection to it, I would like to have a direct answer to the question asked by the defense.

COLONEL CHASE: Read the question and the answer.

(Reporter read the question and answer.)

COLONEL CHASE: I think the answer is responsive.

Q At what time did you arrive at the high school?

A At night or during the day?

Q Did you go to the Bacolod High School during that day?

A Coming back or going?

Q When you started out on this expedition of March 11?

A I did not know what time we arrived at the high school.

Q Approximately how long would it take you to go from the Kempei headquarters to the Bacolod High School?

A Approximately from ten to fifteen minutes from the high school to the Kempei office.

Q How do you remember that it was a Saturday as the day on which your campaign started?

A In our cell we have marks at the back in our walls. All the dates we mark, so that we will not forget.

Q And did you mark which day of the week, like Monday, Tuesday, Wednesday or Thursday, as well as the date of the month?

A I do not know what the rest did, but in my case I have a calendar that I used to mark.

Q Do you still have that calendar that you marked?

A If it has not been erased, I am sure it still must be there.

Q And this is the calendar that you prepared yourself on the prison cell wall?

A Yes.

Q And did you draw a big red circle around March 11th, so that you would be able to remember that date?

A Only a small one, just to distinguish what date of the month.

Q And what kind of a mark did you use, a red circle or a red cross?

A Cross.

Q Was it a black or a red cross?

A No, black, because I used nails doing so.

Q When you returned to your cell -- withdraw that question.
What was at the Bacolod High School in March of 1944?

A Will you mind repeating this question?

Q Is there a Japanese unit stationed at the Bacolod High School?

A I do not know if there were Japanese there, but when we went there that Saturday there were Japanese.

Q And did the Japanese that joined the Bacolod High School, were they fully armed and equipped as though for a campaign or an operation?

A Some have arms.

Q This group that joined you at the high school, did they line them up before they got into the trucks?

A I have not seen them lining.

Q Did your calendar show whether the weather was wet or dry that Saturday, March 11, 1944?

A On March 11th, the weather was very good and the moon was bright.

Q Do you remember that very clearly, that the moon was bright on March 11?

A Yes, it is clear to me.

Q Was that a full moon or a half moon?

A It was a full moon, because when we left the Kempei Tai office the moon showed.

Q Now, were there any clouds in the sky when you started out on that campaign?

A None, the weather was very nice.

Q Were there plenty of stars out that night?

A Plenty.

Q How far were you able to observe as you stopped in front of the high school?

MR. BLACK: If it please the Commission, I don't think anybody could answer that question.

MR. SIMON: I believe he could tell what the visibility was; whether it was such that he could see 100 or 150 yards in front of the high school or more, perhaps a mile.

MR. BLACK: If the question was directed more specifically, I wouldn't mind its vagueness.

MR. SIMON: I will rephrase the question. I will withdraw the question.

Q How far would you estimate the distance to be that you could see the night of March 11, 1944, when you were parked by the high school?

A Up to that car (indicating) I could see, because it was clear.

MR. SIMON: Let the record indicate the witness gestured indicating a distance of approximately 100 feet.

Q How long did this group remain at the high school on March 11th?

A I could not estimate because we have stayed there quite a while.

Q Did you remain there approximately two hours while this high school group was organized and loaded on the trucks?

A I don't think so.

Q Could you give us the best estimation of how long you think you stayed there?

A Approximately half an hour.

Q Did the soldiers wear raincoats that night?

A I have not seen them having raincoats.

Q Did they carry their raincoats that night?

A I have not seen.

Q Did they wear steel helmets that night?

A I have not seen.

Q Did they wear cloth caps that night?

A Yes, that is what they wore.

Q Did you see that or do you think that is what they wore?

A I only thought of that because I am not interested in it anyway.

Q In fact, you could not see what those soldiers were wearing, isn't that true?

MR. BLACK: Object to that question.

COLONEL CHASE: Objection not sustained. He may answer the question.

A I could only see those that I met, but the rest I do not know because I am not interested.

Q Did you meet some of the soldiers by the high school that night?

A I saw them because they passed by us.

Q And were you able to distinguish what they wore as they passed by you?

A I saw also they are wearing khaki.

Q And how long did they pass from you to the high school?

A It is about the distance from here to the bench (indicating).

Q Which bench?

A The one where that man is sitting (indicating).

MR. SIMON: Let the record indicate the witness

gestured indicating the distance to be about fifteen feet.

Q And at that distance you could recognize what these soldiers wore, is that true?

A I am not interested to recognize.

Q You do have an interest in this case, don't you?

A Yes.

Q What is your interest in this case?

A My interest here is to tell about the death of Vicente Torres.

Q Do you hate Kawamori?

A No.

Q Do you hate the Japanese?

A I hate the Japanese, but I do not hate him.

Q Why is that?

A Because he had not beaten me.

Q And in fact, didn't you work for Kawamori and direct this operation and serve as a guide the night of March 11, 1944?

A No.

Q Was Lieutenant Kawamori kind to you?

A He is not so good to me, but he would not also do anything with me.

Q Now, how did the group proceed from the high school to Barrio Sum-ag? What type of transportation did they use?

A We rode in the truck.

Q And where was the truck in which you were riding; at the head of the column or at the rear of the column?

A We were in the middle of the group.

Q Could you see the truck behind you as you rode to Barrio Sum-ag?

A The one that is directly behind us I could see, but the rest I could not.

Q And how far behind was this truck that was directly behind you?

A I think it is about to that corner of that building there (indicating).

MR. SIMON: Let the record indicate that the witness gestured indicating the distance to be approximately forty feet.

Q Did the trucks all have their lights on as they went down the road?

A The one following us and our truck have lights.

Q And how about the other trucks?

A I do not mind the other trucks.

Q What time did this group arrive at the Barrio Sum-ag?

A I don't know.

Q Approximately how long would it take to go from the high school to Barrio Sum-ag?

A Depends, because our truck was going slowly, but the distance from Bacolod to Sum-ag is approximately ten kilometers.

Q Was it starting to get light outside when this group arrived at Barrio Sum-ag?

A No, it was evening.

Q Was it approximately midnight when you arrived at Barrio Sum-ag?

A Approximately midnight.

Q Now, what happened when the group arrived at Barrio Sum-ag?

A We came down from our truck.

Q Did everybody come down out of the truck?

A I do not know about the others, but ourselves, we come down from our truck.

Q How many people, -- Japanese, Filipino prisoners, were in this group that got off the trucks at Barrio Sum-ag?

A I do not know, but in our case Torres and myself came down.

Q Were there approximately 200 Japanese in that entire group that stopped at Barrio Sum-ag?

A I do not know because it was evening.

Q When you dismounted at Barrio Sum-ag, did all the Japanese form into a group?

A No, because when we came down for a short while we left.

Q What type of formation was used to move the troops out of there?

A They walked on the road while we walked also.

Q Did they walk four abreast?

A That is what I do not know.

Q Did one-half of the group walk on one side of the road and one-half of the group on the other side of the road?

A I do not know whether they are in that formation.

Q Did you see any Japanese on that -- withdraw that question. On which side or on which portion of the road did you march?

A In the middle of the road.

Q And were there Japanese to the left of you?

A No, because the Japanese that was with us from the Kempei was holding the rope to our back.

Q And how about the Japanese that were with you from the Bacolod High School? Where were they marching?

A I saw some Japanese walking ahead of us.

Q Could you give us an idea of how many Japanese you could see up ahead of you as you moved out of Barrio Sum-ag?

A I am not interested to find out how many there were.

Q And you weren't interested in how many were behind you, were you?

A Yes.

Q How many were behind you, then? Withdraw that question. Were you interested in how many Japanese were behind you?

A There were six Japanese that were bringing us, but the rest I am not interested as to who they are.

Q How far did this group go after they left Barrio Sum-ag?

A I do not know, but below the Barrio Talotog, we stopped there.

Q How far is it from Barrio Sum-ag to Barrio Talotog?

A I do not know the distance, but we stopped there.

Q Do you recall how long it took the group to move from Barrio Sum-ag to the place where you stopped near Barrio Talotog?

A That is what I do not know.

Q Did you march for over three hours to arrive at Barrio Talotog?

A None.

Q Did you march for two hours?

A None, also.

Q Did you march for three minutes?

A More than that.

Q How much more?

A It won't take an hour before we reach the barrio.

Q Was it an hour, more or less, before you arrived at Barrio Talotog?

A Less than an hour.

Q Did the group make any stops between Barrio Sum-ag near Barrio Talotog?

A Our truck did not stop. I don't know where the rest stopped.

Q Did you go from Barrio Sum-ag to Barrio Talotog by truck or on foot?

A We just walked from Barrio Sum-ag to Barrio Talotog.

Q Did you take any rest stops between Barrio Sum-ag and Barrio Talotog?

A No.

Q When you reached Barrio Talotog did the group stop?

A In our group with the Kempei Tai we stopped, and also we saw some other groups stop.

Q Isn't it a fact that all the Japanese in the group stopped at that place?

A I do not know.

Q Did you see Colonel Yamaguchi when you stopped at Barrio Talotog?

A No.

Q Where did you stop in Barrio Talotog that night?

A Right on the road below Talotog..

Q Did the soldiers go out to Barrio Talotog and search the houses there?

A I do not know, but we ourselves did not leave the road..

Q How long did you remain at that place on the road near Barrio Talotog?

A Not very long.

Q Then what did you do?

A Then they asked to sit by the canal.

Q Was there water in that canal?

A No.

Q How wide is that canal?

A About this (demonstrating); a small canal..

MR. SIMON: Let the record show the witness indicated the canal to be approximately twenty-four inches.

Q At the canal did you see Colonel Yamaguchi?

A No.

Q Did you see Japanese there that had joined the group

at the Bacolod High School?

A There were plenty of Japanese, but I could not tell whether they came from the high school.

Q Did the other Japanese wear arm bands or insignia of any kind?

A None, except the M.P.'s.

Q How many M.P.'s were there?

A Six soldiers, Kawamori and Naka.

Q How many soldiers were there that did not wear arm bands?

A I do not know, but the Kempeis all had arm bands.

Q Do you recall approximately how many soldiers there were besides the Kempei?

A I do not know.

Q Were there more than one hundred?

A I could not tell because I do not know.

Q Do you mean you were not interested?

A I am not interested.

Q Were you interested in any other officers at the canal?

A None.

Q You had no interest in that?

A None.

Q Did you have any interest in what happened to the other two Filipinos?

A My interest is because I have seen it.

Q Isn't your interest in Vicente Torres only?

A All that I have seen I could tell, but those that I could not see I could not tell.

Q Isn't it true that you did not see anybody touch or

strike Vicente Torres that night?

A How could I say because one of the soldiers struck the back of my neck so that I could not see Vicente Torres.

Q Did you fall unconscious after you were struck?

A No.

Q Did you feel weak and giddy?

A No.

Q But you kept your head turned away from the direction in which Vicente Torres was taken?

A Yes, because I was facing that way, and there was a soldier at my back. I could not move.

Q To your front, did anything happen that night?

A Yes.

Q What happened at your front?

A When they took one of the men to be killed, I saw them killing him.

Q Did you see whether the Yamaguchi Battalion, the soldiers not wearing arm bands, took that man away?

A I do not know as to whose soldiers they are, but all I can say is I have seen them taking him.

Q How long did the group remain at the canal?

A For a short while.

Q Approximately how long?

A About half an hour.

Q Were there clouds in the sky at that time?

A That night the moon was very bright.

Q And the stars were very bright, weren't they?

A Yes, also bright.

Q You could see clearly everything, couldn't you?

A Yes, very clear.

Q Could you see those drops of blood fall off of Kawamori's sword that night?

A I have not seen, but when he arrived he wiped the sword on the grass and on his pants.

Q How far was he from you when he wiped his sword?

A About that distance (indicating).

MR. SIMON: May the record show the witness gestured indicating the distance to be approximately four feet.

Q Did Kawamori walk around in front of you and wipe his sword off?

A Just beside me was the place where he wiped his sword.

Q Weren't you looking straight ahead and not to your side when Kawamori was wiping off his sword?

A I was facing in that direction, but when he wiped the sword on my side, I saw.

Q Did you turn around and look?

A Only when I turned around my eyes, I could see.

Q Did you see any blood on Kawamori's shirt?

A I have not seen where there is blood.

Q Were you able to see at that distance whether there were or were not stains on his clothing?

A I have not seen. I only saw the sword that he was wiping.

Q Did Kawamori remark, "Good, I chopped a man's head off!"

A He did not say.

Q Did you hear what he said?

A No.

Q Did he say anything?

A I do not know.

COLONEL CHASE: I think we are wasting a little time because the witness doesn't speak Japanese.

MR. SIMON: I understand, sir, he does not speak Japanese.

Q Did Kawamori say anything?

A I have not heard him saying anything.

Q Did the soldier behind you tell you that they chopped off a man's head?

A No.

Q Did he tell you anything?

A None.

Q Did you ever learn that the Japanese cut off Torres' head?

A I do not know.

Q At what time did you arrive at the 18th Kilometer Mark?

A In a short while.

Q How far was it from the canal to the place where the 18th Kilometer's Mark was?

COLONEL CHASE: Mr. Simon, I think the testimony introduced by the prosecution was solely in corroboration with the incident concerning the name of Dr. Aurelio. The rest has nothing to do with the Specifications, and I suggest you limit your cross-examination.

MR. SIMON: I am trying to move him off of the area, out of the canal area. I will withdraw that question.

Q Did you ever return to the canal since that date?

A No.

Q When you saw Enrique Torres after the liberation, did

he take you to the canal?

A How could Vicente Torres take me there, because he has been killed?

Q Then you saw Enrique Torres?

A No.

Q Didn't Enrique Torres ask you where this incident occurred?

A No, he only gave me a note to be brought to the War Crimes.

Q Did you go to the War Crimes?

A Yes.

Q Did they show you a picture of Kawamori and ask you if that is the man?

A No.

Q What happened when you went to the War Crimes?

A They took my affidavit, and Lieutenant Clark was the one who took my affidavit. After signing my affidavit, they told me that they went to that place.

Q Did Lieutenant Clark take your affidavit in English?

A Yes.

Q Do you read English?

A Yes.

Q Do you understand English?

A Yes.

Q Did he dictate the statement as to what you were to testify to?

MR. BLACK: I object to that question, if the Commission please.

COLONEL CHASE: Objection sustained. The Commission will take a short recess at this time.

(Short recess.)

he take you to the canal?

A How could Vicente Torres take me there, because he has been killed?

Q Then you saw Enrique Torres?

A No.

Q Didn't Enrique Torres ask you where this incident occurred?

A No, he only gave me a note to be brought to the War Crimes.

Q Did you go to the War Crimes?

A Yes.

Q Did they show you a picture of Kawamori and ask you if that is the man?

A No.

Q What happened when you went to the War Crimes?

A They took my affidavit, and Lieutenant Clark was the one who took my affidavit. After signing my affidavit, they told me that they went to that place.

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Q Do you read English?

A Yes.

Q Do you understand English?

A Yes.

Q Did he dictate the statement as to what you were to testify to?

MR. BLACK: I object to that question, if the Commission please.

COLONEL CHASE: Objection sustained. The Commission will take a short recess at this time.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. SIMON: Will the interpreter remind the witness he is still under oath.

(Translated to the witness by Interpreter Dianala Jo.)

Q Thinking back to March 11, 1944, isn't it true that the Kempei did not wear their arm bands that night when out on this patrol?

A Those companions of ours have arm bands.

Q Aren't their arm bands white and easily seen at night?

A White and the mark is red.

Q Could you see those from quite a distance away?

A I could see them because it is just in front of me.

Q Now, at the canal did you see each of these six soldiers when they returned to where you were sitting?

A Only five went because the one was holding me.

Q Did you see each of those five when they returned?

A Yes, I saw them because they sat down this way (indicating

Q Did they all line up in front of you and start wiping off their bayonets at the same time?

A No, because as each one arrived he wiped his bayonet and put it in his scabbard.

Q Did they arrive in front of you in a single file?

A No.

Q How much time elapsed between the time the first soldier came in front of you and the second soldier?

A A short while, because they are following each other.

Q Then, they did come one behind another and stop in front of you, isn't that true?

A No, they did not stop in front of me.

Q Where did they stop in relation to the direction in which you were facing?

A Just beside me on the canal where I was also sitting, but some sat down in front of me.

Q Were their bayonets fixed on their rifles when they came around to your side and to your front?

A When they arrived it was still there, and then they took it out.

Q Did they all get there before any of them started to take the bayonet off his rifle?

A No, some when they arrived took off their bayonets, and then another one would arrive and take off his bayonet.

COLONEL CHASE: I don't believe this line of questioning is getting you anywhere. I don't want to interfere.

MR. SIMON: I have one point and I believe I will establish it.

Q Did you see the blood on each one of those bayonets?

A I did not see, but they were wiping them.

Q In fact, you didn't see blood on any weapons that night, isn't it true?

A The one in front of me, when he took his bayonet and wiped on his pants, his pants became wet.

Q How far did that man stand in front of you?

A Very near, just as far as that (indicating).

MR. SIMON: Let the record indicate the witness gestured indicating the distance to be about one foot.

Q When he was in front of you wiping his bayonet, where were these other four soldiers?

A The rest sat down by my side.

Q Where did they stop in relation to the direction in which you were facing?

A Just beside me on the canal where I was also sitting, but some sat down in front of me.

Q Were their bayonets fixed on their rifles when they came around to your side and to your front?

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Q How far did that man stand in front of you?

A Very near, just as far as that (indicating).

MR. SIMON: Let the record indicate the witness gestured indicating the distance to be about one foot.

Q When he was in front of you wiping his bayonet, where were these other four soldiers?

A The rest sat down by my side.

Q They were shoulder to shoulder, is that true?

A Not shoulder to shoulder, but they were sitting down.

Q You could see all five of them sitting around you?

A Only four because the one was sitting in front of me.

Q Were the four on the side and one in front?

A Yes, and one was also at my back.

Q You saw all five wipe off their bayonets?

A Yes, I saw them because when they arrived they took off their bayonets and wiped them.

Q Did you see all five wipe their bayonets?

A I saw them wiping but I do not know if they are five.

Q Do you recall whether it was three men?

A No, because our companions were only six soldiers.

Q So you say there were five men wiping bayonets then?

A I did not count, but every time they arrived they wiped their bayonets.

Q Didn't you state that there were four alongside of you and one in front of you?

A Yes.

Q And didn't each one of those wipe their bayonets?

A Yes, they wiped them.

COLONEL CHASE: We are just going around and around here. The witness keeps repeating the same answer in response to the same question. It doesn't seem that you are accomplishing anything.

Q When they took Vicente away in the canal, did his shirt have no sleeves on it?

A Short, sir.

Q Are you sure of that?

COLONEL CHASE: Let the record indicate that the witness indicated by gesture the sleeves cut off just above the elbow.

A Yes.

Q What color was that shirt?

A Faded khaki.

Q Were there any markings on that shirt?

A Some parts had patches in the back.

Q Could you recall how many patches there were on the back of that shirt?

A I could not.

Q Did you recall whether he had on long trousers?

A No, short.

Q Do you recall the color of those trousers?

A Also khaki.

Q Did he wear a belt?

A I do not know if he had a belt.

Q Do you recall whether Vicente Torres had any gold teeth?

A I do not remember because his mouth could no longer be opened. He could not open his mouth.

Q Weren't you confined in the same cell with him for about eleven days?

A I could not remember how many days.

Q Weren't you confined in the same cell with him for some time?

A When we came in we were together until he was taken out.

Q Didn't you notice he had about six gold teeth in his lower jaw?

A I have not noticed.

Q You don't know whether he had any gold teeth or not, is that it?

A I have not seen.

Q Do you know whether he had any earrings?

A I have not seen.

Q Are you sure of that?

A Yes.

Q Did he have on these wooden clog shoes that Filipinos sometimes wear that night?

A No.

Q What kind of shoes did he have on?

A We were barefooted.

Q Were you present at the time the other Filipinos were giving their stories to Lieutenant Clark?

A When I went there, I was alone.

Q Do you know Emiliano Namo?

A No.

Q Do you know Florencio Depra?

A No.

Q Do you know Emilio Parreno?

A Yes.

Q Was he present at the time you gave your statement to the War Crimes Detachment?

A No.

Q Was Emilio Parreno a guerrilla?

A I do not know.

COLONEL CHASE: It seems to me that there is nothing relevant in that statement concerning Emilio Parreno.

MR. SIMON: Emilio Parreno is one of the alleged victims in one of the specifications,--in Specification No. 4.

COLONEL CHASE: All right, you can go ahead.

Q Do you know what Emilio Parreno's occupation was during the Japanese occupation of the Philippines?

A I do not know.

Q Do you know William Kanaan?

A Yes.

Q Was he a guerrilla?

A I do not know.

Q How well did you know him?

A For a long time, as a business man in Bacolod. We used to have our clothes tailored at the Bazaar.

MR. SIMON: No further questions, sir.

A No.

Q Do you know Florencio Depra?

A No.

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A For a long time, as a business man in Bacolod. We used to have our clothes tailored at the Bazaar.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the prosecution?

MR. BLACK: The prosecution has a few on redirect.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Do you remember whether Vicente Torres wore an undershirt that night?

A Yes.

Q What color was it?

MR. SIMON: Wait a minute. I am going to object to this question and move the answer be stricken now, because there is no foundation laid to show that he could see the color of the undershirt since he testified the man had on a shirt over it.

COLONEL CHASE: He already testified on direct examination that he had on a red undershirt and you have been questioning him on cross-examination as to the color of the shirt. Let us give the prosecution an opportunity to do the same thing.

MR. BLACK: May we have the question read?

(Reporter read question.)

A Red.

Q Was the shirt, the overshirt, was that whole or torn in any part?

A Yes, torn in some parts of the back .

Q What happened to the two Filipinos who were picked up at the Bacolod High School that night?

MR. SIMON: Objection as being incompetent, irrelevant, and immaterial to this action.

MR. BLACK: If it please the Commission, when I asked the question on direct examination yesterday, the same objection was made by the defense counsel. That objection was sustained; however, a few minutes ago on cross-examination Mr. Simon asked this witness that same question. Now having opened that door, I think the prosecution is well entitled and may proceed along that line.

MR. SIMON: My comment, sir, is that if we were served with specifications involving two unidentified Filipinos then defense would be prepared to defend the specifications and charges relating to these two unidentified Filipinos. Otherwise that testimony is incompetent, irrelevant and immaterial. The War Crimes Commission is not a board of inquiry. You are here only to try on specific charges and specifications.

COLONEL CHASE: The defense on cross-examination brought up the subject of the two other Filipinos across the ditch. Therefore, the objection is not sustained.

MR. SIMON: Sir, I don't like to argue with the ruling of the Commission, but the defense did not ask any questions relating to these two unidentified Filipinos. We only ask the witness a question to check his visibility,--as to how far he could see. It is the witness' answer that opened that up.

COLONEL CHASE: The objection is overruled, you may answer.

MR. BLACK: Will you please read the question, Reporter?

(Reporter read the question.)

A I have seen that one was taken away from the other for a short distance and was thrust with a bayonet and he fell.

Q Did he get up or remain lying?

MR. SIMON: Object to that on the grounds that there is no tie-up between this unidentified soldier, who allegedly thrust at this unidentified Filipino, and the accused in this case.

COLONEL CHASE: Objection not sustained.

MR. BLACK: May I make this statement for the record, if it please the Commission. It is not the intention of the prosecution to charge the accused with responsibility for participation in the offense of the killing of two other Filipinos. This is merely for the sake of establishing a corpus delicti with respect to Vicente Torres and nothing else.

MR. SIMON: If it please the Commission, that is a long, far-fetched reasoning for my poor mind, that is the incident relating to two unidentified Filipinos. I don't see how that can establish a corpus delicti for Vicente Torres.

COLONEL CHASE: Will you state briefly just where you will tie that in?

MR. BLACK: I will tell the Commission this: A few minutes ago defense counsel asked the witness if he

knew one Emiliano Namo. He then asked him if he knew a Depra--I forget the first name at the moment. I have served the defense counsel with copies of affidavits of these two people who, if they were here, would testify in support of Specification No. 5. However, they are not available. Based on those affidavits Mr. Simon has in front of him, he was questioning this witness with respect to certain things. Now those affidavits, which the prosecution will offer in evidence, contain certain information relating with the specification on Vicente Torres.

COLONEL CHASE: I think defense counsel well knows that this Commission has no power to find the accused guilty of anything which he is not charged with. However, attending incidents and circumstances may or may not prove material to the issue, and the Commission cannot decide that without knowing what the attending circumstances are. Therefore, the law Member reaffirms the previous ruling, and the witness may answer the question.

MR. BLACK: I will withdraw that question to facilitate matters.

Q What happened to the second Filipino?

A When they took away the first one, I bowed my head so that I have not seen where they took him.

COLONEL CHASE: Let us be sure we have the correct answer in the record. I think either the witness or the interpreter stated, "the first one." In order to clear this point up, I would like to ask a few questions.

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EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q When the first man was taken away across the canal, did you see where he went and what was done?

A Yes.

Q And when the second man was taken away, did you see him or not?

A I have not seen him because I bowed my head.

COLONEL CHASE: That is all I wanted to clear up.

REDIRECT EXAMINATION (CONTINUED)

BY MR. BLACK:

Q And who was the next one taken?

A After that, Kawamori, Naka, and the five soldiers stood up and took Vicente Torres and brought him going this way (indicating.)

Q You testified that you heard a groan. Will you describe the groan? Tell us what sort of a groan it was, if you can.

MR. SIMON: Objection, as improper redirect examination.

COLONEL CHASE: Objection not sustained.

A It was just like this--umm (indicating.)

Q How was Kawamori armed?

MR. SIMON: Objection, sir, as being repetitious. That has been asked and answered on direct examination. I never went into it on cross-examination.

EXAMINATION BY THE COMMISSION

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BY MR. BLACK:

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Q How was Kawamori armed?

MR. SIMON: Objection, sir, as being repetitious. That has been asked and answered on direct examination. I never went into it on cross-examination.

COLONEL CHASE: Objection not sustained.

A Kawamori was just holding his sword. That was the only arm he had.

Q What did Naka have?

A Sword, also.

Q Before they took Torres away from where you and he were sitting, did you see whether the Japanese were cutting grass with their bayonets?

A No.

Q Was Kawamori cutting grass with his sword?

A No.

Q Was there any water in the ditch or canal?

A No, none.

Q Did you tell anyone where the body of Vicente Torres was?

A Yes, to Lieutenant Clark of the War Crimes.

Q When was that?

A I could not remember, but when I met Enrique Torres and he delivered to me the note, that was the time when I met Lieutenant Clark.

Q Is that the first time you ever told anyone where the body was?

A Yes.

Q Did you ever see Vicente Torres after that?

A No.

Q Do you know whether anybody has seen him after that?

MR. SIMON: Objection, sir. Too vague and ambiguous; it is without the knowledge of this witness.

MR. BLACK: Based on his knowledge.

COLONEL CHASE: Objection not sustained.

A I do not know.

Q Do you know Gabriel Espino?

A Yes.

Q Where did you see him?

A Inside of the cell.

Q When?

A I could not recall, but he stayed long inside the cell.

Q Do you know a Lope Ledesma?

A Yes.

Q Where did you see him?

A Also inside the cell.

Q Was he in the cell during the time you were there?

A Yes.

Q You did not live in Bacolod City, is that right?

A No.

MR. BLACK: I have one more question. This may be repetition and the defense counsel will probably object. I anticipate that.

Q You heard the groan. Did you hear anything else before that or after that?

A Before that Vicente Torres was saying that he should be forgiven because he will not repeat what he has done.

Q Could you hear the words distinctly?

A Yes.

Q Did anybody else say anything?

A There was one word which I heard which said, "silence."

Q In what language?

A In Visayan.

Q Do you know who said it?

A I do not know.

Q When you were taken away from this particular point, were you the only one of the four left?

A Yes.

MR. BLACK: No further questions by the prosecution.

COLONEL CHASE: Questions by the defense.

~~RECROSS EXAMINATION~~

BY MR. SIMON:

Q Did Vicente Torres tell you what this thing was that he wanted to be forgiven for that he would not repeat?

A I do not know.

Q Did he tell you, or did you learn that it was because he was a guerrilla that he wouldn't be forgiven for?

A I do not know.

Q Was it because you were not interested?

A I am not interested because in the cell we were not allowed to talk to each other. If they found that we did, soldiers would beat us with an iron rod.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q When the two men were brought out from the Bacolod High School were they placed in the same truck with you or in another truck?

A In another truck.

Q When you finally got down from the truck, did they get off of their truck at the same place?

A I have not seen them because we were ahead to go down and the rest also came down.

Q When you went to the place near the dry canal, were there other Japanese soldiers present besides Kawamori, Naka, and the others from the Bacolod Kempei Tai who started out with you?

A In the Kempei unit we were together, and there were other Japanese away from us which I do not know where they come from.

Q Were the other two men taken across the ditch by men from the Kempei unit who started with you, or by other Japanese soldiers?

A Those Japanese with them were the ones who brought them.

Q You testified that when the Japanese came back after taking Torres behind you, they brought with them the rope with which Torres had been tied?

A Yes.

Q How do you know that that was the same rope? Could it have been a rope that looked like the rope with which he had been tied?

A That is the same because that is a part of the rope that I was tied with.

Q Tell me how you are sure that it was the very same rope and not another rope that looked like it?

A That is the rope because it was long; then they cut it; one end was tied to Torres and the other was tied to me.

COLONEL CHASE: I have no further questions.
Any further questions?

MR. SIMON: The defense has some more questions.

RECROSS EXAMINATION (CONTINUED)

BY MR. SIMON:

Q Were there any distinguishing marks about this rope that would enable you to recognize it?

A There were no marks but the size and the appearance, as to how long it was, and the way it was tied.

Q Was it tied when it was brought back to you?

A At the end it was tied.

Q And did they take it to you and show it to you so you could identify it and examine it?

A No, because when they arrived one of the soldiers put down his gun and the same rope was rolled by him.

MR. SIMON: No further questions.

MR. BLACK: No further questions by the prosecution.

COLONEL CHASE: The witness will be excused.

(Witness excused.)

MR. BLACK: Prosecution will call as its next witness Carmen Caballero.

CARMEN CABALLERO

a witness for the prosecution, being first duly sworn,
testified as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q Do you understand and speak English, Miss Caballero?

A I like Visayan.

MR. SIMON: Just a moment, please. If this witness understands sufficient English so that she can converse in it and understand it, the examination should be conducted in English. Otherwise, it gives the witness two opportunities to figure out the answer.

MR. BLACK: The defense will have the same privilege—

MR. SIMON: I will not be given the same privilege. She is the one testifying.

COLONEL CHASE: It has been the custom before these Commissions to give witnesses, including Japanese witnesses, the privilege of deciding which language they will testify in, and the Commission will adhere to that ruling.

Q What is your full name?

A Carmen Caballero.

Q How old are you?

A Thirty-six.

Q What is your occupation?

A Housekeeper.

Q Are you married?

A Widow.

Q Do you have any children?
A Yes.
Q How many?
A Two.
Q In February, 1944, where did you live?
A Kabankalan.
Q Do you know a Vicente Torres?
A Yes.
Q Was he related to you?
A None.
Q How do you know him?
A Because he lived in the town where I also lived.
Q Is that Kabankalan?
A Yes.
Q How long have you known him?
A For a long time.
Q About how old is Vicente Torres?
A About nineteen to twenty.
Q Can you tell us about how tall he was?
A He is a little bit taller than myself.
Q How tall are you?
A About five feet.

Q Did you see him in February, 1944?

A Yes.

Q Can you tell us approximately how much he weighed then?

A I could not estimate, but he was a little bit thinner.

Q A little bit thinner than what?

A Than his ordinary body.

Q Would you say that he was slender?

A Yes.

Q Can you give us a description of him and of the color of his hair?

A He is white and his hair is reddish.

Q Did he have any distinguishing features or characteristics?

A Yes, because when I saw him he had wounds.

Q Aside from any wounds, did he have any characteristics or marks?

A Yes.

Q What?

MR. BLACK: I will withdraw the question.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The witness is reminded that she is still under oath.

(Translated to the witness by Interpreter Dianala Jo.)

Q Do you know whether Vicente Torres had any gold teeth in his mouth?

A I forgot because it was already for a long time that I had not seen him.

Q Will you try to remember back in February of 1944 and tell us as best you can whether he had one or more or no gold teeth in his mouth?

A Yes, he has.

Q How many did he have?

A I cannot remember as to how many gold teeth he has.

Q Could you remember in what part, whether it was the upper or lower part?

A I could not remember.

Q Was Vicente Torres arrested by the Japanese?

A Yes.

Q Do you recall about when that was?

A In 1944.

Q Do you recall the month?

A February.

Q How do you know it was February, 1944?

A Because I was also arrested by the Japanese.

Q At that time?

A Yes.

Q Prior to the arrest of Vicente Torres, did he visit at your home?

A Yes.

Q Can you tell us the circumstances of that visit?

A He just visited us and my children.

Q Do you know a man by the name of Cuachon?

A Yes.

Q Who was Cuachon?

A I only knew him when we were in jail.

Q Did Torres and Cuachon visit your house in February of 1944?

A Yes.

Q Tell us what happened during that visit.

A I do not know what they are doing but they were just talking with each other.

Q Do you know what they were talking about, the substance of their conversation?

A I do not know what they were talking about.

Q Were they talking about a letter or a message?

A It seems to me it is a message.

Q Do you know where that message came from?

A From his father.

Q From whose father?

A Vicente Torres.

Q Who received that message, if you know?

A Vicente Torres.

Q From whom, if you know, did Vicente Torres get the message, the actual message?

A From Cuachon.

Q Do you remember the date when Torres was arrested?

A Those days.

Q Those days, when?

A February.

Q What part of February?

A When I was arrested in those days.

Q Was it the early, the middle, or the end of the month?

A At the end of February.

Q 1944?

A Yes.

Q Where was he kept?

A In Kabankalan.

Q Do you know for approximately how long he was kept at Kabankalan?

A About five days.

Q Do you know where he was taken from Kabankalan?

A Yes.

Q Where?

A Bacolod.

Q Do you know what happened to Vicente Torres?

A When I went out of the jail I learned that he was killed by the Japanese.

Q From whom did you learn?

A From my friends in Kabankalan.

Q What did your friends tell you?

A That Vicente Torres was killed by the Japanese; that they had seen him; that he was dead in the ditch.

MR. SIMON: Defense is going to move that all this be stricken until some identification is made of these people from whom she is getting this information.

MR. BLACK: I was just on the point of asking the witness.

MR. SIMON: I will withdraw my objection.

COLONEL CHASE: The prosecution may continue.

Q Who are these friends who told you?

A From Kabankalan also.

Q Give us their names.

A Some of them were dead already.

Q Do you mean some of them are now dead?

A Yes.

Q Give us their names.

A Monica.

Q Who else?

A Emiliano Infante.

Q Who else?

A They are the ones that told me.

Q Do you know where they received this information?

A Yes.

Q Tell us.

A From the D. I. soldiers.

Q Who are D. I. soldiers?

A Those who are serving . those that were killed by the Japanese are known as D. I. soldiers.

Q Do you mean soldiers who made investigations?

A Yes.

Q Do you know Enrique Torres?

A Yes.

Q Who is Enrique Torres?

A The father of Vicente Torres.

Q Did you ever see and speak with Vicente Torres after February, 1944?

A No more.

Q You haven't seen him to this day?

A No more.

Q Do you mean you haven't seen Enrique Torres or Vicente Torres?

A I saw Enrique Torres.

Q When did you see Enrique Torres?

A When I left Bacolod to come here.

Q Did you speak with him?

A Yes.

Q Did he tell you anything about his son, Vicente Torres?

A Yes.

Q What did he tell you?

A He told me to work harder to bring justice to the one that killed my son.

Q From the time that Vicente Torres was taken from Kabankalan until this day, did you ever see Vicente Torres?

A No more.

Q Do you know of anyone who has seen him?

A No.

Q Did you ever hear from him from the time he left Kabankalan until today?

A That is what I have heard, that he was killed by the Japanese.

Q From the time Vicente Torres was taken from Kabankalan until today, did you ever hear from Vicente Torres?

A No.

Q Do you know of anyone who has heard from him?

A Yes.

Q Will you explain that "yes"?

A I have heard from somebody who has seen him.

Q From whom did you hear?

A From one who is also a witness here.

Q When did this man tell you he had seen him?

A When we met here in the camp.

Q Do you know this man's name?

A His first name is Cresencio.

Q Is it Cresencio Federez?

A Yes.

Q What did he tell you?

A That he has seen Vicente Torres killed by the Japanese.

Q Until the latter part of February, 1944, did Vicente Torres visit you directly?

A No more.

Q Before the latter part of February, 1944, did Vicente Torres come to your house?

A Yes.

Q About how often?

A About once a week only.

Q Did you ever visit his home?

A No.

Q Did you see Vicente Torres before or at the time when he was taken from Kabankalan to Bacolod?

A I saw him before he was brought to Bacolod.

Q How soon before he was taken to Bacolod did you see him?

A We were together four days in the jail.

Q Did you see him on the day he was taken from Kabankalan to Bacolod?

A Yes.

Q Will you describe the clothing he wore?

A He was wearing a blue shirt and khaki pants.

Q Short khaki pants, is that right?

A Yes.

MR. SIMON: Defense would request what value would this information be of, what that man was wearing way back then? The important thing is to determine what he wore when he left the Kempei Tai jail.

MR. BLACK: Prosecution is trying to show as much as it can; whether it establishes anything to the satisfaction of the defense, it is something else. But it establishes something to the prosecution, and I trust to the Commission.

Q Did he have on a faded khaki shirt or a faded blue shirt?

MR. SIMON: I am going to object to this line of questioning as incompetent, immaterial and irrelevant.

COLONEL CHASE: Objection not sustained.

A Faded blue shirt.

Q Do you remember whether he wore an undershirt?

A When he left Kabankalan he had no undershirt.

Q Do you know where he obtained the short khaki pants and the shirt?

A It was given to him by the Japanese in Kabankalan.

Q How do you know?

A Because he was beaten by the Japanese and tied, and he had only short pants on then, no shirt.

MR. BLACK: Defense may examine.

CROSS-EXAMINATION

BY MR. SIMON:

Q Was Enrique Torres a famous guerrilla leader on Negros?

A Yes.

Q Didn't his boy, Vicente, assist his father in guerrilla operations?

A No.

Q Didn't he run messages for his father from the mountains to the city?

A No.

Q Did you overhear what his message said that Cuachon and Torres were discussing?

A No.

Q Did the Japanese military forces at Kabankalan arrest Vicente Torres?

A Yes.

Q Did they arrest you at the same time?

A Yes.

Q And Cuachon at the same time?

A No.

Q Did Cuachon leave before you were arrested?

A I do not know.

Q Were you arrested because of your connection with Vicente Torres and Cuachon?

A That is what they suspected me of.

Q Didn't Vicente Torres have a message on his person from his father?

A I do not know.

Q Didn't the Japanese question you after you were arrested about the contents of that message?

A No.

Q What did the Japanese question you about?

A He questioned me if I am helping the army.

Q Did he tell you why he suspected you of helping the army?

A Because they said I was helping Vicente Torres.

Q Didn't the Japanese tell you that Vicente was caught

with a message that said, "Get us some grenades so that we can attack the Jap garrison."

A Yes, that is what the Japanese told me.

Q Wasn't that the truth, that Vicente was supposed to bring grenades for the guerrillas?

A No.

Q Did he tell you what he was going to do about that message he had from his father?

A He did not tell me.

Q Do you recall whether Vicente had several gold teeth in his mouth?

A That is what I could recall, but I am not so sure he had some gold teeth.

Q Do you recall that he did have several gold teeth, regardless of where they were in his mouth?

A I think he had some gold teeth.

Q Now, was his hair the color of mine (indicating)?

A Not so much like yours, but a little bit reddish.

Q Was it redder than my hair (indicating)?

A No.

Q Is there any color hair that would indicate the color of Vicente's hair here?

A A little bit lighter than your hair.

MR. SIMON: Let the record indicate that she is referring to defense counsel.

Q Did he have any wounds on his body when you saw him in February 1944?

A Yes.

Q Now where were those wounds located?

A His face was inflamed; his eyes were protruding; his nose was swollen with a wound on this side (indicating) and the blood coming out; his body all over there was plenty of wounds.

Q Did he have any broken bones?

A Yes.

Q Was his nose broken?

A Yes, because there was a wound there.

Q How about on his limbs? Were there any noticeable wounds, marks not bruises but wound marks?

A Yes, there were wounds of all types.

Q What type of wounds were there on his hands? Give us a description.

A The effect of the beating on his flesh they were swollen and red.

Q Were there any scars, healed scars on his body?

A After he was beaten there were plenty of wounds.

Q Was he taken in that condition to Bacolod?

A After five days' stay in Kabankalan he was brought to Bacolod.

Q Now did you work for the D. I.?

A No.

Q Do you know the name of the D.I.'s that informed you what happened to Vicente?

A I do not know their names, but I could recognize their faces.

Q Are they still in the town from which you came?

A I do not know if they are still there because they also lived in another town.

Q When was it that you talked to these D. I.'s?

A When the Americans came.

Q And did they tell you how they learned or where they received their information about Vicente?

A Yes.

Q How many D. I.'s were there that told you this information?

A About five of them.

Q Did all five of them come up to you at the same time and give you this information?

A No.

Q They all came to you on the same day but one at a time?

A They did not come but we met each other and they told me.

Q Did you meet all five of them on the street somewhere?

A Yes.

Q Did you meet them all on the same day?

A No.

Q What was the name of the first one you met?

A I do not know them but they know me.

COLONEL CHASE: This witness' direct testimony was not to the effect that any of the D. I.'s told her personally. They told this Monica and someone else who then told her.

Q Did you learn the information about Vicente directly from the D. I.'s or did you hear this from Monica?

A First I learned it from the D. I.'s.

Q Now what is the name of the D. I. that told you this information?

A I do not remember.

Q Did this D. I. say that he was present at Bacolod when Vicente was taken away?

A No. He was not present, but he knew that Vicente Torres was killed by the Japanese.

Q Did he tell you how he knew?

A He was also told by the D. I.'s in Bacolod.

Q Did he tell you -- this D. I. in your place -- where the D. I. in Bacolod got his information?

A Yes.

Q Where did you say that this D. I. in Bacolod got his information?

A I do not know where he got his information. All he told me was that he used to get this information from the D. I. in Bacolod.

Q Did he get that in the market place somewhere?

A I do not know.

Q Did the Japanese investigate Vicente Torres while he was confined in Kabankalan those five days?

A Probably he was investigated because at times he used to be brought out from the jail by the Japanese.

Q And didn't they also question you about Vicente Torres?

A No.

Q Did you say previously that the Japanese were questioning you about Vicente Torres?

A They asked me only whether I knew Vicente Torres, and that is all.

Q Didn't they ask you about Vicente Torres' activities?

A Yes, and I told them that I do not know what he is doing.

Q Was Enrique Torres a well-known guerrilla throughout the Island of Negros in 1944?

A Yes.

Q Did you talk to Enrique Torres in Bacolod?

A No.

Q Didn't you see Enrique Torres before you came here for this trial?

A Yes.

Q Didn't you talk to him?

A Yes.

Q Now did Enrique Torres tell you about finding the body of his son?

A Yes. He told me that his son was found in the ditch.

Q Did Enrique Torres -- I will withdraw that -- do you hate the Japanese?

A Yes.

Q Would you do anything to help hurt the Japanese?

A I will also help for what they have also done to me.

Q If I told you that the testimony that you gave on the stand would help set this Jap free, acquit him, would you change your story?

MR. BLACK: If the Commission please, I think that is going a little bit far afield in that question. I don't

like to hamper the defense but --

MR. SIMON: (Interposing) I believe it shows bias and prejudice.

MR. BLACK: The witness has already admitted she hates the Japanese. There is no denial of that fact.

MR. SIMON: I am trying to prove the depth of that hate; whether it is such that she will fabricate stories on the stand.

COLONEL CHASE: The witness may answer the question.

MR. SIMON: Will the reporter please read the question.

(The reporter read the question.)

A I say that I hate the Japanese for what they have done to me.

Q And you are willing to do anything to see that a Japanese hangs?

MR. BLACK: I object to that question.

COLONEL CHASE: You are going too far, Mr. Simon. I suggest you get an answer to the previous question that I allowed.

MR. SIMON: Will the reporter read the previous question.

(The reporter read the question.)

COLONEL CHASE: Tell her to answer that question.

MR. BLACK: If she can.

COLONEL CHASE: If she can.

A How could my declaration set him free, when I have already stated that I hate the Japanese.

COLONEL CHASE: Read the answer back reporter.

(The reporter read the answer.)

Q Mrs. Caballero, if I told you that your declaration will set him free, will you then change the story that you have testified to on the stand?

COLONEL CHASE: I think you are going too far again there.

MR. SIMON: Sir, it is the same question, and she has not answered it.

COLONEL CHASE: I will let you have a direct answer to the question you previously asked, but not to the last question.

MR. SIMON: Will the reporter please read the previous question.

(The reporter read the question.)

A Why should I change?

Q Would you change it in order to convict this Japanese?

MR. BLACK: If it please the Commission, the witness has already answered the question.

COLONEL CHASE: I think you already have an answer.

MR. SIMON: Sir, she has not answered yet. All she said is why should she change.

MR. BLACK: She said, "Why should I change." She gave you an answer.

MR. SIMON: The witness ought to be instructed to answer yes or no. It is a simple answer to a simple question.

MR. BLACK: There is nothing simple about that question.

COLONEL CHASE: I don't think I will let you develop that any further. I have given you considerable latitude right now along that line.

Q How many times were you arrested by the Japanese, Mrs. Caballero?

A Only once.

Q Were you mistreated at the time you were arrested?

A Yes.

Q Do you have a deep hatred in your heart for the Japanese?

A Yes.

Q A dying hatred against the Japanese?

A Yes.

Q Would you make up a story, - tell a lie to help convict a Japanese?

A Why should I tell a lie when I am telling the truth?

Q Would you tell a lie to convict a Japanese?

A Why should I tell a lie?

Q If you hate them, will you tell a lie to convict them?

MR. BLACK: If the Commission please, --

COLONEL CHASE: She has answered the question. She has admitted the fact but stated that she is telling the truth. I believe you have gone far enough into that now.

MR. SIDON: No further questions.

COLONEL CHASE: Any questions by the prosecution?

REDIRECT EXAMINATION

BY MR. BLACK:

Q In February of 1944 where did Vicente Torres live, Mrs. Caballero?

A In the house of the family of Adad in Kabankalan.

Q Is Vicente Torres related to the Adad family?

A No, they are only friends.

Q During that time do you know where Vicente Torres' father, Enrique Torres, was?

A Yes.

Q Where?

A In Tolong in the mountains.

Q Vicente Torres and his father, Enrique Torres, did not live together at that time?

A No.

MR. BLACK: That is all.

COLONEL CHASE: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q You testified you get information from other people that Vicente Torres was dead. Did you get this information directly from the D. I. soldiers or from other people, including Monica and Emiliano Infante?

A From the D. I. and also from Monica and Infante.

Q That is you got it both from Monica and Infante and from the D. I., is that correct?

A Yes.

COLONEL CHASE: Any further questions by the Commission?

(No response.)

MR. BLACK: May I ask one question before the Commission is through?

REDIRECT EXAMINATION (Cont'd.)

BY MR. BLACK:

Q Mrs. Caballero, is it common knowledge that Vicente Torres was killed by the Japanese?

MR. SIMON: I object to the question as calling for the conclusion of a witness.

COLONEL CHASE: Objection sustained.

MR. BLACK: No further questions by the prosecution.

MR. SIMON: No further questions by the defense.

COLONEL CHASE: The witness will be excused.

(Witness excused.)

COLONEL CHASE: The Commission will recess until 1300 this afternoon.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: May the record show that at the time the Commission reconvened all of the members of the Commission, the counsel for the prosecution, the counsel for the defense, the accused and his personal interpreter were present.

At this time the prosecution will offer in evidence as its Exhibit No. 4 an affidavit of Florencio Depra in support of Specification No. 5. The reason for this request is based on the fact the witness was unavailable to appear and testify before this Commission. The defense was notified of this fact and has been served with a copy of the affidavit.

MR. SIMON: Sir, defense objects to the introduction of Prosecution's Exhibit No. 4 on the grounds that it is incompetent, immaterial, and irrelevant. The affidavit tells a story of the finding of three bodies by a creek. There is no reference in the affidavit to the body of Vicente Torres. There is no connection between the location where the bodies described in this affidavit were found and the location where Vicente Torres was last seen and therefore this affidavit is incompetent, immaterial and irrelevant until some foundation is laid to show that it does have some bearing on this action.

MR. BLACK: If it please the Commission, under the rules laid down by SCAP regarding the trial of these cases, the affidavit testimony is admissible and the

contents of the affidavit to the extent of the probative value and relevance value and materiality is to be determined and decided upon by the Commission.

COLONEL CHASE: It is intended that this particular affidavit be tied to other evidence which you intend to introduce?

MR. BLACK: The prosecution will offer in evidence another exhibit which will tie in with this and with the oral testimony given in support of Specification No. 5.

COLONEL CHASE: Any further remarks by the defense?

MR. SIMON: Yes, sir, defense states that merely because Prosecution's Exhibit No. 4 is an affidavit does not make it admissible. It must have some materiality and some competency to it before it is admitted into the record. Both of these affidavits, as I say, refer to the finding of some bodies near a creek and there is no showing that it has any bearing on the facts in this case.

MR. BLACK: That statement by defense counsel is merely a conclusion. It will be up to the conclusion or at the outset for the law member of the Commission to determine that and not for the defense counsel.

MR. SIMON: There is no reference in here concerning Vicente Torres in this affidavit.

COLONEL CHASE: It is obviously impossible for the Commission to determine the relevancy of the contents of the document without having the document for study and Prosecution's Exhibit No. 4 will therefore be admitted into evidence for such probative value as it may have.

(Prosecution's Exhibit No. 4
was received in evidence.)

MR. BLACK: I should like the next affidavit admitted in evidence as an exhibit so that the Commission may look at both of them at the same time or as it sees fit.

At this time the prosecution will offer in evidence an affidavit of Emiliano Nama as Prosecution's Exhibit No. 5. The witness was unavailable to appear to testify in person before this Commission. The defense was advised of that and was served with a copy of the affidavit.

MR. SIMON: Defense enters the same objections to Prosecution's Exhibit No. 5 as it did to Prosecution's Exhibit No. 4 and further reserves the right to comment upon pertinent portions of this affidavit for the Commission to consider while deliberating whether these affidavits should remain in this case hereafter or be excluded as being incompetent, immaterial and irrelevant or perhaps the Commission should rule first on the admittance of this exhibit and then defense will make its comment directed toward excluding both exhibits from the record.

COLONEL CHASE: Do both relate to Specification No. 5?

MR. BLACK: Yes, sir.

COLONEL CHASE: Prosecution's Exhibit No. 5 will be admitted for such probative value as it may have. The defense obviously has the right to comment on any feature of any document introduced or to introduce evidence in rebuttal. In the first place, for the guidance of the Commission as to the probative value to be given these, will the prosecutor state what effort was made to produce

these witnesses actually in court where they might be cross-examined and the reason why they were unable to produce them? (Prosecution's Exhibit No. 5 was received in evidence.)

MR. BLACK: The prosecutor states on his own knowledge that a Captain Gestoso of the WCID office was sent to Negros Occidental to bring in witnesses whose affidavits have been offered in evidence as Prosecution's Exhibits 4 and 5; that this officer has returned and has advised the prosecutor that he was unable to locate the witnesses.

COLONEL CHASE: Does the defense wish to make any comment on this at this time or reserve this right for closing argument?

MR. SIMON: Defense would like to comment at this time in regard to a motion to strike from evidence Prosecution's Exhibit Nos. 4 and 5.

COLONEL CHASE: Before anyone can consider that intelligently it is going to be necessary for us to read these documents to see what the contents of them are.

The Commission will take a very brief recess, perhaps five minutes, after which defense may make such comment as it sees fit.

(The Commission recessed to go into executive session.)

COLONEL CHASE: The Commission is in session.

The Commission would like to recall, as a Commission witness, Carmen Caballero, and following her testimony would like to recall, as a Commission witness, Cresencio Federez.

MR. SIMON: Sir, at this time would a defense motion be in order to strike from the evidence Prosecution's Exhibits 4 and 5.

COLONEL CHASE: Not at this time.

MR. SIMON: All right, sir.

MR. BLACK: If the Commission please, it will take about fifteen minutes to bring these two witnesses over here. They did not report here after lunch. They are back at the office of the Coordinator of Civilian Witnesses.

COLONEL CHASE: To save time, suppose we let this matter go over until those two witnesses are available. In the meantime the prosecution can call its next witness.

MR. BLACK: With regard to Exhibits 4 and 5 in evidence by the prosecution permission is asked for leave to withdraw the originals and substitute therefor true certified copies for the record.

COLONEL CHASE: Permission is so granted, and the same permission will be given in regard to any other exhibits which may be introduced by either side.

MR. BLACK: I invite the attention of the Commission to the page numbers appearing on the affidavits. Those page numbers are the page numbers that appeared in an unnumbered case of the Bacolod Kempei Tai record in the office of the prosecution.

COLONEL CHASE: That is that these are part of a file which includes the testimony of a number of witnesses?

MR. BLACK: That is correct, sir.

Prosecution will call as its next witness Leopoldo Anoché. He will testify in support of Specification No. 4.

Do you understand and speak English?

LEOPOLDO ANOCHE: Yes, sir.

MR. BLACK: Would you rather testify in English or in your own native language?

LEOPOLDO ANOCHE: I would rather testify in my own native tongue, Visayan.

COLONEL CHASE: You may do so.

LEOPOLDO ANOCHE

a witness for the prosecution, being first duly sworn, testified as follows through Interpreter Dianala Jo.

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your name?

A Leopoldo Anoché.

Q How old are you?

A Thirty six years old.

Q What is your nationality?

A Filipino.

Q Where do you live?

A 185 San Juan, Bacolod City.

Q Did you live in Bacolod City during the Japanese occupation?

A Yes.

Q What was your occupation then?

A Policeman, sometimes an employee and sometimes buy and sell also.

Q During February of 1944 do you remember what you were doing?

A Is that for the whole month of February?

Q Yes.

A I was in the office of the Kempei Tai.

Q In Bacolod City?

A Yes.

Q What were you doing there?

A I was working in the office.

Q What were you doing in the office?

A Miscellaneous.

Q Miscellaneous office work?

A Yes.

Q How did you come to be employed in that office?

A Because before the war I was a policeman in Bacolod.

Then when the Japanese arrived we were ordered to report all of the personnel of the City Hall. Before we reported we consulted our Mayor as to his opinion. He told us, "You must report." So we reported to the office of the Japanese Kempei Tai, so while we were there some of us were given the work and myself was placed in the office of the Kempei Tai. That is all.

Q Do you know a man by the name of Emilio Parreno?

A Yes, I know him.

Q Who is he?

A He is an attorney in Bacolod.

Q Was he ever arrested by the Kempei Tai?

A Yes.

Q Do you recall when that was?

A Yes.

Q When?

A About the first week of February 1944.

Q Did they do anything to Parreno -- I will withdraw that question -- where was Parreno placed?

A When I saw Parreno that was the first time he was brought in the Kempei Tai office together with one Filipino. Well, they just went upstairs. Together with him was a Filipino. After they had been there some fifteen to twenty

minutes upstairs, Attorney Parreno came down, together with Sasaki, together also with that Filipino. I saw Parreno then with his face swollen. That is all what I have seen.

Q Do you know how long Parreno was kept there at the Bacolod Kempei Tai?

A Yes.

Q How long?

A More or less about one week.

Q Was he imprisoned?

A I have not seen whether he was placed in jail.

Q Where was he kept?

A He was always there upstairs in the investigation room.

Q Do you know who investigated him?

A Sasaki.

Q Did you see Parreno when he first came to the Kempei Tai?

A Right there when he passed by the office.

Q Was his face swollen the first time you saw him?

A Not yet because his companion was then a Filipino.

Q When was it that you saw him with his face swollen?

A After he had left upstairs to go with Sasaki and also with that Filipino.

Q Did you notice anything else about Parreno's appearance?

A No more.

Q Did you see any marks on his face?

A Yes, there was swelling on his face.

Q Were there any marks, or scars?

A None.

Q Did you talk to Parreno?

A No.

Q Did Parreno say anything to you?

A No.

Q Do you know how his face became swollen?

A When I saw him I did not know why his face was swollen.

Q Before he went upstairs to the investigation room did you see his face?

A Yes.

Q Was it swollen?

A No.

Q When he came down from the investigation room was it swollen?

A Yes.

Q Do you know why Parreno was investigated?

A Yes.

Q Why?

A Because according to what was told to me of the person who arrested him that Parreno was bringing the script money of the guerrillas.

Q Who told you that?

A The Filipino who arrested me that is connected with the Kempei Tai.

Q Do you know his name?

A Yes.

Q What was it?

A Roque Tesoro.

Q During the month of February 1944 who was the commanding officer of the Bacolod Kempei Tai?

A Lieutenant Kawamori.

Q Do you know Lieutenant Kawamori?

A Yes, I know his face.

Q Do you see him in this courtroom?

A He is here.

Q Will you walk over and point him out?

A This is Lieutenant Kawamori (indicating).

MR. BLACK: The record will indicate that the witness pointed out the accused.

Q Was Lieutenant Kawamori the commanding officer of the Kempei Tai before February 1944?

A Before February he was also the chief.

Q Was he also the chief after February 1944?

A He was still the chief until June and in July he was no longer the chief.

Q Do you remember the names of the Kempei Tai in Bacolod?

A I could still remember.

Q Tell us some of their names?

A Nakamura, where I used to work, Marikawa, in charge of the supply, Yamashita, one of the Kempei Tai, Hirikawa, who gave us the supervision of the Filipino police, Kawamori, and Chief Murikawa in the investigation.

Q Did you know a Sasaki?

A I know Sasaki was one in the investigation.

Q Did you know a Yamane?

A I know him also.

Q Who were the interpreters?

A The interpreters there were Yamane, Uehara, Kajiyama, and Murikawa. Those are all I could remember.

Q Did you remember one by the name of Marikawa?

A The Marikawa that I could remember is a Kempei and not an interpreter.

Q During the time that you were working with the Bacolod Kempei Tai were there any Filipinos arrested and investigated?

A Many.

Q Were there many imprisoned?

A Many were imprisoned.

Q Where was the office and prison of the Bacolod Kempei Tai?

A From May up to December -

Q (interposing) What year?

A From May 1942 to December of the same year they were in the house of De La Pena, Bacolod. At about the end of December -- the 28th or 29th, we transferred to Smith Street which was formerly the Bacolod Private Hospital. That is all.

Q Where was the investigation room or rooms?

A What building do you mean?

Q At the Bacolod Private Hospital.

A Their investigating room was upstairs, second floor.

Q Where were the cells?

A Downstairs.

Q How could you get from the cells downstairs to the investigating room upstairs?

A From the room, the prison cell, you come out to an alley. You come inside here (indicating) in the center of the building. There is a stair leading upstairs; turn to the left; there is another alley leading to the right as you go upstairs. That is the investigation room.

Q Where was Lieutenant Kawamori's office?

A As you go upstairs on the left.

Q About how far away was it from the investigation room?

A More or less twenty meters.

Q Indicate the distance.

A Up to that wall there or a little bit nearer here
(indicating).

MR. BLACK: Forty five feet.

MR. SIMON: About forty feet.

Q During the time you worked for the Kempei Tai there were any of the Filipino suspects given a trial?

MR. SIMON: Defense will object to that question unless it is shown that this witness understands what a trial is. Now I think that there has been some serious difficulties in war crimes trials for that reason. As Americans it is difficult for us to comprehend a trial without a standing formality, with judges and jury. Now perhaps the witness understands the procedure they used before they confine a man and that may be very much different.

Q Do you understand the meaning of the word "trial"?

A I understand it.

Q What do you mean by a trial?

A My understanding of the word "trial" a person who is accused will be brought before a judge with his attorney, with also an attorney against him. He should be informed by the judge of his offense and he should also defend himself of the crime he is accused of through his attorney. That is how I understand it.

Q Did you see anything like that take place at the Bacelod Kempei Tai?

A No.

Q Do you know whether or not Lieutenant Kawamori knew any of the Filipino suspects were beaten?

MR. SIMON: Objection as being incompetent, irrelevant and immaterial and calling for the conclusion of the witness.

MR. BLACK: That is not a conclusion.

MR. SIMON: How would he know what Lieutenant Kawamori knows?

COLONEL CHASE: The objection is not sustained.

A To my understanding I think he knows.

Q How do you think he knows?

A Because when he is in the office and those who were brought there were investigated, the cries of pain of those who are investigated is usually heard in the office of Kawamori.

Q In what office did you work?

A In the office of Nakamura, just below the office of Kawamori.

Q When you were in the office did you ever hear cries of pain from the investigation room?

A No.

MR. BLACK: Mr. Simon, you may question.

CROSS-EXAMINATION

BY MR. SIMON:

Q Was it illegal to exchange this script for the guerrillas and transfer money from Commonwealth peso to "Mickey Mouse" money and vice versa?

A According to the Japanese order, it is against.

Q And if you caught anyone that was illegally exchanging this currency, wasn't he supposed to be punished for that?

A It depends on the Japanese.

Q Does it depend on briber or some other type of influence, or does it depend on something else whether a man would be punished or not?

A It depends on the position of the Japanese who caught him.

Q Then isn't it true that the hearing that was given a man who illegally transferred currency was given by the man who captured him?

MR. BLACK: I object to that question. How could this witness possibly know all of that?

COLONEL CHASE: Will the reporter read back the question?

(The question was read.)

COLONEL CHASE: The witness may answer that question.

A No.

Q Who would decide what disposition to make of the case, whether to punish them or not to punish them?

A The Chief of the Kempe Tai is the one who decides.

Q Was every one of those cases referred directly to Lieutenant Kawamori?

A According to how I understand that is what they are doing there. They pass it to Lieutenant Kawamori.

Q What were your duties in the office?

A Sometimes they placed me there at the door to attend to the complaints of the Filipinos. At times I am also outside because not all the days of the week I am employed there. I only am working part time.

Q Did you ever serve as the desk sergeant or in charge of the office to take care of these minor police complaints that would come in?

A I was assigned there just to help the other Japanese there.

Q Was there a Japanese there that took care of settling minor police complaints, say involving a fine of five dollars or three days in jail, small complaints like that?

A The work of the Japanese there is not that; that is not the work I am doing. My work for the Japanese there is that if a Filipino should go there with complaints to any of the Japanese that he needs or wants I will show him where to go. That is the work of mine there.

COLONEL CHASE: Where is this line of questioning leading? So far I see very little connection.

MR. SIMON: Defense is trying to establish what type of procedure they actually did use. If a man is caught illegally carrying currency we go in and see a desk sergeant, we pay a fine.

COLONEL CHASE: That is not what you are asking him. You are asking him his own detailed duties in his Kempei Tai office. If you want to bring that point out ask him questions which will bring that point out.

Q Who in the Kempei Tai will take care of settling such a case involving illegal transactions in currency?

A It depends as to who of the investigators in the Kempei Tai will be given the assignment.

Q Was Sasaki the investigator assigned for that purpose?

A Yes, Sasaki.

Q Now, if Sasaki arrested Parreno and found Parreno possessing illegal currency could he try the case and decide what to do with Parreno?

A It was not Sasaki that caught Parreno.

Q Who caught Parreno?

A Roque Tesoro.

Q Was it Roque Tesoro who decided what punishment should be imposed on Parreno.

A No.

Q Do you know who it was that decided that Parreno should be kept in jail for a week?

A Yes.

Q Who was it?

A Kawamori.

Q How do you know that?

A Because all that they do there are sanctioned by Kawamori.

Q Is there some police record that is kept of these minor violators, a book of some kind or a blotter like the one that happened with Parreno?

A Yes, I understand there is.

Q Isn't Parreno given an opportunity to explain to the Kempei how he came to have this money and his reasons for having it and explain his defense to them?

A His only chance to reason out was when he was investigated.

Q At that time he explains his side of the story?

A I do not know what he answers there, but if the Japanese are investigating him only two of them are answering each other with an interpreter.

Q Do you know if Parreno is permitted to talk to the investigator and explain why his actions were as they were?

MR. BLACK: If it please the Commission --

COLONEL CHASE: He has already answered your question and he says he doesn't know.

Q How long did you work for the Kempei Tai?

A From July 1942 up to February 1944.

Q When did you quit in February of 1944?

A I did not quit, only they left me there.

Q When did you quit working for the Kempei Tai, what date?

A In February I was no longer working with them.

Q Were you working for the Kempei Tai on February 4, 1944?

A Yes.

Q I thought you said in February you were no longer working for the Japanese.

COLONEL CHASE: He said his period of employment was from the beginning date until February 1944. We are just using a great deal of time for no purpose whatever. He answered your question. If there is any question about it we will have the reporter read back and the termination date will be settled.

MR. SIMON: He said he worked on February 4, 1944. He just said, He was working on February 4th."

COLONEL CHASE: You asked him, "Were you working there on February 4, 1944" which was in accord with his previous testimony.

Q When did you quit working there? On what date in February did you quit working?

COLONEL CHASE: What has that to do with this particular matter? I want to give you all the leeway in the world but practically none of this examination has been relevant.

MR. SIMON: It so happened that Parreno was arrested in February 1944 and this man has testified about something he knows about Parreno's confinement and arrest

and it seems that he terminated employment before Parreno was arrested.

COLONEL CHASE: He has testified giving the dates. He first said it in Spanish numerals and I know enough Spanish to get it myself.

MR. SIMON: Will the reporter read back the record concerning his period of employment with the Japanese and I believe it will say that he worked up until and not in February.

(The record was read.)

Q Was it illegal in 1943 and 1944 to trade food and fish without permission from the Kempei Tai?

A It is not against.

Q Was the food supply closely watched by the Kempei Tai and regulated in any way?

A The selling of foodstuffs outside was regulated by the policemen.

Q Do you mean by the Philippine Constabulary?

A Yes.

Q Did it require any special permission to haul fish from Silay to Bacoled?

A Not necessary.

Q In what manner was it controlled then?

A What they want is if the foodstuffs are sent to every town that is all right but if it is sent up to the mountains it is prohibited.

Q If a man was caught stealing foodstuffs to the mountain could he be punished for that?

A He is not punished. As I have said before it depends on the one who arrested him.

Q Did you know Manuel Gomez?

A Now?

Q Do you know him now or did you know him in Bacolod?

A Only now I know him.

Q Did you know where he was arrested and confined for illegally selling fish?

A I do not know.

Q Do you know if Moises Alipala was arrested and confined by the Kempei Tai in November of '42 for illegally dealing in foodstuffs?

A I do not know.

Q Do you know whether Parreno had been arrested before February 1944 for illegally trading in currency and script?

A I do not know.

Q Isn't it true that the Kempei Tai picked them up and arrested them five times before February '44 for illegally trading in script?

A I do not know.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Any further questions by the prosecution?

REDIRECT EXAMINATION

BY MR. BLACK:

Q During the period that you worked for the Kempei Tai did you work there all the time?

A I did not work there all the time because I only worked part time.

Q What times did you work?

A Three times a week.

Q During the day or the night?

A During the day.

Q What hours?

A Regular hours from nine to twelve and one to five.

Q Three times a week?

A Yes.

Q How many investigators were there at the Bacolod Kempei Tai?

A Sasaki.

Q Just tell us the number. Were there five or more?

A The ones that I know of are three only.

Q Did you see them beat Filipino suspects?

A I have not seen.

Q Did you ever see the interpreters beat Filipino suspects?

A I have not seen.

Q Did you ever see anybody beaten?

A I have not seen.

Q Did you hear of anybody having been beaten?

A Yes, I have heard.

Q From whom?

A Right there in the office.

Q Who told you, how did you know?

A Sometimes I heard also from the interpreter and sometimes from the Filipinos.

Q What did they tell you?

A That they were beaten by a stick while they are investigated.

MR. BLACK: I have no further questions.

COLONEL CHASE: Questions by the Commission?

(No response)

COLONEL CHASE: The witness will be excused.

(The witness was excused.)

COLONEL CHASE: The Commission will take a short recess.

(Short recess)

COLONEL CHASE: The Commission is in session.

MR. BLACK: At this time, with the permission of the Commission, the prosecution will offer in evidence an affidavit by Emilio B. Parreno, who is unavailable as a witness to testify before this Commission. The defense also, prior to this trial, was served with a copy of the affidavit. This is in support of Specification No. 4.

MR. SIMON: No objection, sir.

COLONEL CHASE: The affidavit of Emilio B. Parreno will be admitted as Prosecution's Exhibit No. 6.

(Prosecution's Exhibit No. 6
was received in evidence.)

For the record, the witnesses which we desired to have called this afternoon will not be available until tomorrow morning. With reference to the point raised by the defense counsel, until the Commission hears these witnesses tomorrow morning, the ruling will be made at that time.

MR. BLACK: At this time the prosecution would like to incorporate into the record a stipulation entered into between the prosecution, defense counsel, and the accused in support of Specification No. 12. It is stipulated that if William Kanaan were duly sworn as a witness before this Commission, he would testify, in substance, as follows, but not necessarily admitting the truth of his testimony.

"That his full name is William Kanaan, 35 years old, Lebanese, Syrian, merchant and a Catholic, and residing in Iloilo City on the 22nd day of January, 1946; that he was living in Bacolod City and was a merchant there; that he had been arrested by the Japanese four times; that during the Japanese occupation of the island of Negros he resided in

Bacolod City. He was arrested the third time in his store in Bacolod City in February or March of 1943 because they wanted him to work as a spy for the Japanese. He was slapped and kicked when he refused to do so. He was brought to the Kempei Tai and he was slapped several times and jujitsued by a Japanese in the Kempei Tai. He remained at the Kempei Tai for four days. While he was there he saw the same Japanese who slapped him, jujitsu and torture other people. He does not remember the names of the persons, but he witnessed this personally. He knows Lieutenant Kawamori, but Lieutenant Kawamori did not beat him; that Lieutenant Kawamori did not see him beaten and that he did not complain to Lieutenant Kawamori."

MR. SIMON: No objection, sir.

MR. BLACK: At this time the prosecution will offer in evidence an affidavit by Lope M. Ledesma in support of Specification No. 6. The prosecutor can state, of his own knowledge, that Ledesma was in Manila until two weeks ago but that, unknown to the prosecution, the witness left Manila and is not available for the trial. The witness was not subpoenaed but he was here in Manila and the prosecution was of the belief that he would be available, but he is not. This will be, if admitted, Exhibit No. 7.

MR. SIMON: Defense would only comment that there is included in this affidavit a reference to actions by a Captain Takahashi and a Colonel Yamaguchi and that the members of the Commission should not consider those portions of Prosecution's Exhibit No. 7 that do not apply to this case. The accused, Kawamori, had nothing to do with those incidents; could not initiate them; and could not stop them.

MR. BLACK: The prosecution joins defense counsel in his remarks.

COLONEL CHASE: They will be so considered by the members of the Commission during their deliberations.

MR. SIMON: Also, sir, on page 90, second page of this Prosecution's Exhibit No. 7, there has been no evidence introduced connecting this Japanese sergeant, named Matsunaga with the Kempei Tai or with Lieutenant Kawamori's command. I believe the Commission can take judicial notice of the case of the United States of America versus Akira Takeshita. Akira Takeshita was a sergeant who worked in civilian clothing and was considered as a secret service. He belonged to the Yamaguchi Battalion and operated under the Yamaguchi Battalion. Lots of times the civilians thought he was Kempei Tai, when actually he and the men under him were Imperial Army soldiers.

(Prosecution's Exhibit No. 7 was received in evidence.)

COLONEL CHASE: The Commission will adjourn until 0830, tomorrow morning, 7 November 1946.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 7 November 1946.)

RESTRICTED

FLORENCIO DEPRA, after being duly sworn, testified at Salong, Bago, Negros, Occidental, on 12 December, 1945, as follows:

Q Please state your full name, age, address, religion and nationality?
A Florencio DEPRA, 55 years old, Salong, Bago, Negros Occidental, Catholic and a Filipino.

Q What was your occupation before the Japanese came to Negros?
A I was a farm tenant.

Q What was your occupation when the Japanese came to Negros?
A I was a farm tenant.

Q Did you continue in this occupation while the Japanese were here?
A Yes.

Q Do you recall finding any dead bodies?
A Yes.

Q When was that?
A That was the day when Dr. Florencio AURELIO was arrested by the Japanese when they conducted a campaign in this area.

Q How many bodies did you find?
A Three (3) bodies.

Q Where did you find the bodies?
A I found one body by the side of the creek with his legs touching the water. The hands of this fellow were not tied nor his legs. When facing the mountains, the body is on the right side of the road. He had three bayonet wounds on him. The body had numerous bruises and cuts on it. He was wearing a blue shirt with long sleeves-one half off his body. He had a new red underwear and short khaki pants.

The second body was found on the left side of the road. This fellow was recognized by his relatives who went to the scene, as Zosimo GUELLERA from Talos. The hands of this fellow were tied behind his back.

The third body was found on the right side of the road in the middle of the rice fields, about 50 meters east of the first body and nearer to the road. He had three bayonet wounds - one about two inches below his shin on the neck, one on the upper part of the abdomen and one on the chest. Nobody recognized this man and we are of the belief that this fellow is not from our place. He was wearing grayish khaki colored shirt with short sleeves, and short sack pants.

Q Can you describe these dead bodies?
A Yes, the man found on the side of the creek was about 18 - 19 years old, 5'5" tall, white complexion like a mestizo, long dark hair but not black, 120 - 130 lbs, no glasses, and with one gold tooth on the upper right row.

The second body on the same side of the road was about 5'7" tall, muscular, 35 years old, dark complexion, no gold teeth, black hair.

Q Did you bury the Bodies?
A Only the Body of the late Zosimo GUELLERA was buried right on the spot. The bodies of the man by the creek and the other fellow on the same side of the road were covered only with dirt. The bodies were later dug up by the dogs and carried away.

Q Did you actually see all three bodies?
A No, I was just told about the one on the left side.

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PROSECUTION

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/s/ F.D.

EXHIBIT NO.

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Nov 6 1946

RESTRICTED

Q Do you have anything more to add to this statement?
A No more.

/s/ Florencio Defra
/t/ FLORENCIO DEFRA

COMMONWEALTH OF THE PHILIPPINES)
SS
PROVINCE OF NEGROS OCCIDENTAL)
CITY OF BACOLOD)

I, FLORENCIO DEFRA, being duly sworn on oath, state that I had read to me and understood the translation of the foregoing transcription of my interrogation and all answers contained therein, consisting of two (2) pages, are true to the best of my knowledge and belief.

/s/ Florencio Defra
/t/ FLORENCIO DEFRA

Subscribed and sworn to before me this 12th day of December, 1945.

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR., 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

COMMONWEALTH OF THE PHILIPPINES)
SS
PROVINCE OF NEGROS OCCIDENTAL)
CITY OF BACOLOD)

I, CESAREO B. MEDINA, JR., 1st Lt., Inf. O-37650, Philippine Army, resident of Sumag Barrio, Negros Occidental, being duly sworn on oath, state that I truly translated the questions and answers given from English to Visayan and from Visayan to English respectively, and that after being transcribed, I truly translated the foregoing deposition containing two (2) pages, to the witness; that the witness thereupon in my presence affixed his signature thereto.

/s/ Cesareo B. Medina, Jr.
/t/ CESAREO B. MEDINA, JR., 1st Lt., P.A.
Interpreter.

Subscribed and sworn to before me this 12th day of December, 1945.

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR., 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

RESTRICTED

CERTIFICATE

We, OSCAR L. CLARK, JR., 1st Lt., ASN O-1328122, Infantry, and KENNETH A. CLARK, 2nd Lt., ASN-1330466, Infantry, certify that on 12th day of December, 1945, personally appeared before us FLORENCIO DEBRA, and according to CESARRO B. MEDINA, JR., 1st Lt., Inf., P. A., gave the foregoing answers to the several questions set forth therein; that after his testimony had been transcribed, the said FLORENCIO DEBRA had read to him by the said interpreter the same and affirmed his signature thereto in our presence.

Place: Escobedo, Negroes
Occidental

/s/ Oscar L. Clark, Jr.
/t/ OSCAR L. CLARK, JR., 1st Lt., Infantry
Investigating Officer, War Crimes
Investigating Detachment.

Date: 12 December, 1945

/s/ Kenneth A. Clark
/t/ KENNETH A. CLARK, 2nd Lt., Infantry
Investigating Officer, War Crimes
Investigating Detachment.

CERTIFIED TRUE COPY:

Murray F. Gibbons, Jr.
MURRAY F. GIBBONS, JR.
Captain INF

RESTRICTED

EMILIANO NAMO, after having been duly sworn, testified at Salong, Bago, Occidental Negros, on 12 December, 1945, as follows:

- Q. Please state your full name, age, address, religion, and nationality.
A. Emiliano Namo, 50 years old, Salong, Bago, Occidental Negros, Catholic and a Filipino.
- Q. What was your occupation before the Japanese came to Negros?
A. I was the overseer of the rice plantation of Mr. Juan Javoneta at Salong.
- Q. What was your occupation when the Japanese came to Negros?
A. I was the overseer of the rice plantation of Mr. Juan Javoneta at Salong.
- Q. Did you continue in this occupation while the Japanese were here in Negros?
A. Yes.
- Q. Did you find any bodies of Filipinos who had been killed by the Japanese?
A. Yes.
- Q. When was this?
A. About 12 March 1944 at about 9 o'clock in the morning, the date when Dr. Florencio Aurelio was arrested by the Japanese.
- Q. Did you know any of them?
A. No, I had never seen any of them before.
- Q. Had the persons been killed very long when you found the bodies?
A. They were killed the night previous.
- Q. Where were you the night before you found the bodies?
A. In my house.
- Q. Did you hear anything?
A. That night I heard nothing, but the next morning I was attracted by the commotion down the road and so I went there to find out what the trouble was and found the bodies.
- Q. How many were there?
A. There were three (3) bodies.
- Q. What were the locations and positions of the bodies when you found them?
A. The first body was found on the right side of the road (when facing the mountain) by the side of the creek, with his legs touching the water. His hands were not tied behind his back. He had three (3) bayonet wounds in his body; two in the front of his neck, and one in his chest. The body had numerous bruises and cuts which seemed to have been several days old. He was wearing a new blue shirt with long sleeves and one-half off his body, a red new undershirt, short khaki pants, and no shoes at all.
- Q. Can you describe the man you found beside the creek?
A. Yes, he was about 18-19 years old, 5' 4" tall, white

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complexion, appeared to be a mestizo, long dark hair but not black, about 120-130 lbs., no glasses, no mustache and with one gold tooth at the upper right (canine or incisor).

The second body was found on the left side of the road. This body was recognized by relatives as the body of Zosimo Guellena of Taloc. His hands were tied behind him.

The third body was found lying on his back on the right side of the road, feet tied together and hands tied behind his back. This body was found about 50 meters further east and closer to the road from the body of the first person. He had three (3) bayonet wounds: one on his neck, one on the solar plexus and one on the chest. Nobody recognized the body. This fellow is about 35 years old, 5'7" tall, husky and muscular, dark complexion, no gold teeth, black short hair. He was wearing a grayish khaki colored shirt with short sleeves and buttons complete. He had short sack-cloth pants.

- Q. Did you bury the bodies?
A. Yes, but not completely. The first and second bodies found on the right side of the road, were left on the spot and covered with dirt while the third body was buried right there in the place where the body was found. All these three bodies were later dug up by the dogs and dragged away. The bones were scattered.
- Q. Did these three bodies appear to have been dragged?
A. Only the first and second bodies found on the right side of the road by the creek.
- Q. Do you know anything more about the incident?
A. No, I know no more.

/s/ Emiliano Namo
/t/ EMILIANO NAMO

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF OCCIDENTAL NEGROS } SS.
CITY OF BACOLOD }

I, EMILIANO NAMO, being duly sworn on oath, state that I had read to me and understood the translation of the foregoing transcription of my interrogation and all answers contained therein, consisting of two (2) pages, are true to the best of my knowledge and belief.

/s/ Emiliano Namo
/t/ EMILIANO NAMO

Subscribed and sworn to before me this 12th day of December, 1945.

/s/ Oscar L. Clarke, Jr
/t/ OSCAR L. CLARKE, JR, 1st Lt. Inf.
Investigating Officer, War Crimes
Investigating Detachment

R E S T R I C T E D

I, CESAREO B. MEDINA, JR. 1st Lt. Inf. ASN O-37650, Philippine Army, residing at Barrio Sum-ag, Bacolod, Occidental Negros, being duly sworn on oath, state that I truly translated the questions and answers given from English to Visayan and from Visayan to English respectively, and that after being transcribed, I truly translated the foregoing deposition containing two (2) pages, to the witness; that the witness thereupon in my presence affixed his signature thereto.

/s/ Cesareo B. Medina Jr.
/t/ CESAREO B. MEDINA, JR.
1st Lt., Inf. PA

Subscribed and sworn to before me this 12th day
of December, 1945.

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR. 1st Lt. Inf.
Investigating Officer, War Crimes
Investigating Detachment.

C E R T I F I C A T E

We, OSCAR L. CLARKE, JR. 1st Lt. Inf. ASN O-1328122 and KENNETH A. OLSON, 2nd Lt. Inf. ASN O-1330466, certify that on 12 day of December, 1945, personally appeared before us EMILIANO NAMO, and according to CESAREO B. MEDINA, JR., gave the foregoing answers to the several questions set forth therein; that after his testimony had been transcribed, the said EMILIANO NAMO had read to him by the said interpreter the same and affixed his signature there in our presence.

Bacolod City
Occidental Negros

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR. 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

12 December, 1945.

/s/ Kenneth A. Olson
/t/ KENNETH A. OLSON, 2nd Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

CERTIFIED TRUE COPY:

/s/ Murray F. Gibbons Jr
/t/ MURRAY F. GIBBONS JR
Capt., INF

RESTRICTED

I, Emilio B. PARRENO, after having been duly sworn, testified at Bacolod City, Occidental Negros, on 22 day of January, 1946, as follows:

- Q State your name, age, address, occupation, nationality and religion.
A Emilio B. PARRENO, 41 years old, Bacolod City, Attorney-at-law, married, Filipino and I am a Protestant.
- Q Do you intend to make your present address your permanent home?
A Yes.
- Q In case you move how can we be able to locate you?
A You can get in touch with me by inquiring of my brother, Amado Parreno, practising attorney in Bacolod City, Occidental Negros.
- Q Where were you living during the Japanese occupation of the island of Negros?
A In April 1942, I with my family evacuated to sitio Bucal-bucal, Bacolod City.
- Q Did you remain in that place during the Japanese occupation?
A I lived there until December 4, 1943, when the Japanese in their mopping operation forced me to go to Bacolod as they suspected me as one of the supporters of the guerillas in the mountains.
- Q Did you carry on your occupation as attorney during the Japanese occupation?
A No sir. During the Japanese occupation there was little need for attorneys. The people refrained from going to courts if they could only do so.
- Q Were you ever arrested by the Japanese?
A I have been arrested for six times by the Japanese since they landed in Negros and each time I was investigated. They suspected me of exchanging guerilla money with Japanese money.
- Q Were you a guerilla?
A I was not a guerilla, but when we were in the mountains and when the Japanese began killing people and prohibiting the use of Quezon Notes (Emergency money) that was the time when the guerilla began and for that reason my brothers and I and the other people who evacuated with us in Bucal-bucal thought of helping the growth of the guerilla. But I was not a guerilla in a legal sense.
- Q Did the Japanese have proof or merely suspicion that you were exchanging guerilla notes with Japanese money?
A They were suspecting me but they were not able to get evidence.
- Q When you were arrested by the Japanese on six different occasions, were you ever maltreated by them?
A I was only threatened, but on the sixth time I was so badly maltreated that for 15 days I could not move after I had been released.
- Q What date were you arrested the sixth time?
A I was arrested on February 4, 1944.
- Q When were you released?
A On the 9th of February, 1944.
- Q Will you please tell in your own words about your arrest, imprisonment and maltreatment?
A Since the Japanese came they had suspected me for being pro-American. In spite of their invitation that I live in Bacolod City, I always give reasons that I and my family could not stay here because of the high living conditions in the City. Besides there was not sufficient milk for my child and if I stay in the mountains I could raise goats and carabaos for milk. Mr. ISHINATA, and even that interpreter ANDO, who had been our client talked to me several times to go down to stay here, but I always give excuses. ANDO in the presence of the late Engineer,

U. S. A. OF
F. S. A. OF

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/s/ E.B.P.

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Mr. Galinpin, had told me that reports were received by the Kempei Tai that I was helping the guerillas. I think this is the reason I have been called here in the City for 5 times for investigation. I had been investigated one time from 6:00 o'clock in the afternoon to 2:00 o'clock the early morning. But those Japanese have not taken any evidence except they have strong suspicions. On the sixth arrest, I was arrested on suspicion that I was exchanging scrip notes (guerilla money) with Japanese money. The last week of January, 1944, I was approached by a Chinese mestizo named Vicente YEE. He led me believe that he was sent here by Major PINEDA of Sector D to approach me and ask me to exchange their scrip notes with Japanese money as they need papers, carbon paper, medicines and other articles in the mountains. I did not have enough Japanese money at that time and besides we were in a conspicuous place near the Mira Mar Hotel. I told him to see me next time. Vicente YEE insisted that I would give him a note to DIYCHIU and CHOHONG both wealthy Chinamen here in town who had been helping me in giving supplies for the guerilla in the mountains. I could not give him a note at that time because there were many people around.

On February 4, 1944, Vicente YEE approached me again at Gonzaga street in front of the Lo Pingo Store, where Roque TESORO a very notorious Japanese spy, in fact he was living in the Kempei Tai, was few meters away from us. YEE told me to go farther because he was afraid that we might be heard by Roque TESORO. I reminded Vicente YEE, if he had that scrip money which he told me about. He answered me that he had already disposed of that money. At the Francisco Tailoring Shop on Gonzaga street, I met several friends of mine who had evacuated to our farm. In that place we chatted together about many topics. The same Chinese mestizo, Vicente YEE, waited for me, and insisted that I would give him a note for DIYCHIU as he wanted to exchange scrip money with Japanese money as the guerilla needed many things, and he showed me a list of articles needed by the guerillas. After I gave him a note to DIYCHIU, I was arrested by TESORO and brought to the Kempei Tai now known as the Central Hotel. When I was there I was badly maltreated by Sgt. NAKAMURA and the Japanese interpreter by the name of ANDO. NAKAMURA investigated me and they wanted me to tell the activities of the guerilla, of my support and the scrip money that I was exchanging here, which I denied. For this denial, I was badly punished. They struck me with an iron bar, I was kicked, fujitsu, I received everything that night. In the second evening, I was called again to make a statement that I am supporting the people in the mountains, that I am a spy, that I let the guerillas, who ambushed the Japanese soldiers in Buro-buro, eat in my house which I also denied. Then they hit me, kicked me, slapped me, my head bled, my eyes were swollen. As I denied everything they wanted me to confess, I received some slapping again and the Japanese stopped when they found that I was already weak.

When I was in the Kempei Tai, we were in a room where there was no mat, nothing, and we were bitten by bedbugs, mosquitoes and fleas, and discipline in that cell was very rigid, that a mere whispering will be enough to break your head by a hard blow. They gave us one meal a day consisting of a handful of rancid rice. Sometimes we could not go to the toilet and some boys who stayed there longer with me were already emaciated and some of them were sick of diarrhea that they threw their wastes on the floor. The treatment in the cell was very obnoxious and very insanitary. We were treated not as prisoners but as dogs. On the 9th of February, 1944, I was released. They made me sign a statement that I will not do anything subversive against the Japanese forces; that I have to stay here in the City, I cannot go out. In fact on December 8, 1944, when my house was bombed I wanted to get out, but for fear that they would go after my family, I stayed in the City until the American liberation forces arrived.

R E S T R I C T E D

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- Q Who was the Japanese that tortured you in the Kempei Tai?
A Sgt. NAKAMURA (At this point the witness was shown a picture of Sgt. NAKAMURA whom he identified as the Japanese that tortured him in the Kempei Tai).
Q Do you have anything else to add to this case?
A No more.

/s/ Emilio B. Parreno
/t/ EMILIO B. PARRENO

COMMONWEALTH OF THE PHILIPPINES }
PROVINCE OF OCCIDENTAL NEGROS } SS
CITY OF BAGCLOD }

I, Emilio B. Parreno, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of three (3) pages, are true to the best of my knowledge and belief.

/s/ Emilio B. Parreno
/t/ EMILIO B. PARRENO

Subscribed and sworn to before me this 26 day of January, 1946.

/s/ James H. Ross
/t/ JAMES H. ROSS, 1st Lt., Infantry
Investigating Officer, War Crimes
Investigating Detachment.

CERTIFICATE

We, James H. Ross, 1st Lt. Inf., O-376782, and Oscar L. Clarke, Jr., 1st Lt., Inf., O-1328122, certify that on 22nd day of January, 1946 personally appeared before us Emilio B. Parreno, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said Emilio B. Parreno read the same and affirmed his signature thereto in our presence.

Baccolod City,
Negros Occidental.

/s/ James H. Ross
/t/ JAMES H. ROSS, 1st Lt., Infantry
Investigating Officer, War Crimes
Investigating Detachment

26 January 1946.

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR., 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

CERTIFIED TRUE COPY:

Murray F. Gibbons, Jr.
MURRAY F. GIBBONS, JR.
Captain INF

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R E S T R I C T E D

LOPE M. LEDESMA, after having been duly sworn, testified at Silay, Negros Occidental, on 27 December, 1945, as follows:

- Q. Please state your full name, age, address, religion and nationality.
A. LOPE M. LEDESMA, 42 years old, Silay, Negros Occidental, a Catholic and a Filipino.
- Q. Where did you live before the war?
A. I lived in Silay, Negros Occidental.
- Q. What was your occupation before the war?
A. I was a farmer.
- Q. What did you do when the Japanese came to Negros?
A. When the Japanese came to Negros, I evacuated to Hacienda de Agua and returned about a month later. However, when the Japanese garrisoned all of Silay, they took my house, and I was forced again to go back to Hacienda de Agua. Not long after that the Japanese returned my house back to me and we lived in Silay until I was captured by the Japanese. That was the time they confiscated my house and, after my release, I rented house, where I lived up to the bombing and I evacuated again, this time to Hacienda Guinsang-an, Silay, Negros Occidental.
- Q. Were you ever mistreated by the Japanese?
A. Yes, I was arrested and held by them for a month.
- Q. What date and time of day did this arrest take place?
A. I was arrested about three-thirty in the morning on March 7, 1944 at my house just outside Silay town. This was a general round up at Silay and there were a large number of Japanese involved: Silay Kempei Tai, Silay Garrison and men from the Bacolod Butai also. The men who came to my house were soldiers of the Bacolod Butai. I was awakened by my wife when the Japanese approached my house and I went downstairs. When I told them my name, they tied me and took me to the house of Elisario SOLANO where the same Japanese arrested him. At the time they arrested Solano, he was tortured in order to get information from him. It was very dark and I could not see exactly what did happen to him. I only heard his cries and he said they dipped his head into the well. This continued for about an hour. Then they proceeded to the house of Rosendo HERADURA, where he was arrested. We stayed there until daylight and proceeded to Silay Garrison. When we arrived there I saw a large number of prisoners around the yard. We were taken inside immediately. About thirty (30) of us prisoners were taken inside a room which seemed to be an office. Col. Yamaguchi was present. Very soon after, a group of men from the Silay Area were brought into the room. They were not under arrest. Then Col. Yamaguchi spoke to the group. He said he was going to make an example. He did not indicate which prisoner. We were afraid at that time, because each of us thought that he might be the one. Then we were taken outside the building to the veranda. When we got outside, one of the prisoners whose name, I do not know, was taken from the line, dragged out in front of us out in the yard on a concrete platform. Then he was made to turn around and forced to kneel down. Col. Yama-

L.M.L.

R E S T R I C T E D

guchi then spoke to Capt. TAKAHASHI who went to the prisoner and bent the prisoner's head down. Capt. Takahashi first made a few practice strokes with his sword; then Col. Yamaguchi gave the order and Capt. Takahashi struck the blow on the back of the prisoner's neck, but probably it did not kill him. Then Capt. Takahashi called a soldier over and told the soldier to bayonet the prisoner. When the bayonet pierced his body, the prisoner was able to utter a cry of pain and then he died. Then they threw a sack over him and left him there. After this, the prisoners were sorted out and some were turned over to the Kempei Tai, while others were taken to the Bacolod Garrison by the Bacolod Butai. We waited there for a truck to pick us up. About thirty (30) of us were placed on one truck and taken to Bacolod. We stopped at the Bacolod Garrison and some of the prisoners were left at the Bacolod Garrison and 14 of us were taken to the Kempei Tai Headquarters and placed in jail. Among these fourteen were Rosendo HERADURA, Elisario SOLANO, German GASTON, Jose JAVELONA, Rosendo JAVELONA, two (2) Chinese, Isabelo LOPEZ, Carlos LOPEZ and a number of other persons from Silay.

Q. How long did you stay at the Kempei Tai jail?

A. I stayed there for twenty-seven (27) days. I was released on April 3, 1944.

Q. Were you ever mistreated by the Japanese?

A. I was kept there for two (2) weeks before I was investigated. Then I was called upstairs and investigated by a Japanese sergeant whom I understand was named MATSONAGA. The investigation was accompanied by torture. This torture consisted of beating with fists and clubs, and kicking. I was investigated for about an hour.

Q. Did you ever receive any mistreatment in your cell?

A. Yes, the same Matsunaga came into the cell almost every afternoon where he would kick, slap, punch and frighten us with his sword.

Q. Did you see other persons mistreated there?

A. Yes, I saw German GASTON, mistreated.

Q. In what way did they torture Mr. Gaston?

A. He had been there about five (5) days. That night, he (Mr. Gaston) had a bad hallucination. He seemed to hear voices of his wife and children being mistreated by the Japanese. He also seemed to hear that the Japanese of Silay Garrison came to burn his house. One of the Japanese officers came and tried to quiet him but didn't even dare to enter the cell. He called two (2) soldiers who came and manacled his wrists, and put on a chain on his ankle. The next morning, Gaston asked permission to go to the toilet and when he got outside the cell, he attacked the guard. This guard raised the alarm and many Japanese came and beat Gaston into insensibility. Then he was thrown back into the cell. He was bleeding very badly. Gaston was delirious and unconscious for over a day. The next day, they tied him to a post in the cell. After this I was placed in another cell because the Japanese said that I was helping Gaston in his in-

R E S T R I C T E D

subordination.

- Q. Did you ever see Ricardo Sofrir in the Kempei Tai jail?
A. No, all I saw was the markings on the wall of the cell that Sofrir had made during his stay, showing how many days he stayed in jail. These marks showed that he left about three (3) days before I arrived.
- Q. Do you recall having seen Jose VILLASOR?
A. Yes, I remembered him. He was in very bad condition. He had bruises all over his body from the beatings. I saw many prisoners whose names I do not know who saw the marks of severe beatings on his body.
- Q. Have you told everything you know?
A. Yes, I know no more.

/s/ Lope M. Ledesma
/t/ LOPE M. LEDESMA

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF NEGROS OCCIDENTAL) SS
MUNICIPALITY OF SILAY)

I, LOPE M. LEDESMA, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein consisting of three (3) pages, are true to the best of my knowledge and belief.

/s/ Lope M. Ledesma
/t/ LOPE M. LEDESMA

Subscribed and sworn to before me this 4th day of January, 1946.

/s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR., 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

C E R T I F I C A T E

We, OSCAR L. CLARKE, Jr., 1st Lt., ASN 0-1328122, Inf., and JAMES H. ROSS, 1st Lt., ASN 0-376782, Inf., certify that on 4 January 1946, personally appeared before us LOPE M. LEDESMA and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said LOPE M. LEDESMA read the same and affixed his signature thereto in our presence.

Silay, Negros Occidental /s/ Oscar L. Clarke, Jr.
/t/ OSCAR L. CLARKE, JR., 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment

4 January 1946.

CERTIFIED TRUE COPY:

Primitivo Ramirez
PRIMITIVO RAMIREZ
Major, (PA), JAGS

/s/ James H. Ross
/t/ JAMES H. ROSS, 1st Lt., Inf.
Investigating Officer, War Crimes
Investigating Detachment.

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R E S T R I C T E D

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

VOLUME IV
PAGES 272 TO 346, INCL.

MANILA, P. I.

DATE: 7 November 1946

COPY NO: 10

cm

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

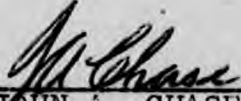
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.



JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
7 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP,
President and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WERLINGER, TC
CAPTAIN HARLYN W. LACEY, CAV (QM)

APPEARANCES:

FOR THE PROSECUTION:

MR. ABRAHAM BLACK, CS, Chief Prosecutor
SECOND LIEUTENANT DEMETRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, CS, Chief Defense Counsel
MR. OTTO SCHULTZ, CS, Assistant Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTEO DIANALA JO)
ROGELIO CATANJAL) ILONGO (VISAYAN)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 7 November 1946, at Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Let the record show that when the Commission reconvened, all the members of the Commission, the prosecution, the accused, defense counsel, and the personal interpreter of the accused were present.

Whom does the Commission desire to recall as the first witness?

COLONEL CHASE: The Commission will call Mrs. Caballero.

CARMEN CABALIERO

a witness recalled by the Commission, was resworn and testified as follows through Interpreter Dianala Jo:

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q You gave the Commission yesterday a description of the appearance of Vicente Torres. Will you tell us what his complexion was, whether his skin was light or dark, in general the color of his skin as compared with other Filipinos?

A He is white.

Q Do you mean by that that he was of lighter color than most Filipinos, perhaps appearing that he was a mestizo?

A Yes.

Q Was that to a degree which would be distinctly noticeable to someone who had never seen him before?

A Yes.

Q Will you state again the color of the shirt which he was wearing the last time that you saw him?

A I saw him wearing a blue faded shirt and khaki short pants.

Q Do you recall whether or not he had a red undershirt?

A I do not know.

COLONEL CHASE: Are there any further questions by the Commission?

(No response.)

COLONEL CHASE: Are there any further questions by the prosecution?

FURTHER EXAMINATION BY THE PROSECUTION

BY MR. BLACK:

Q Do you recall whether he had an undershirt on at the time you saw him?

A When he left he had no undershirt.

Q When he left where?

A Kabankalan.

Q On his way to Bacolod?

A Yes.

Q What date was that?

A About the end of February.

Q 1900 and what?

A 1944.

FURTHER EXAMINATION BY THE DEFENSE

BY MR. SIMON:

Q When Vicente was transferred from Kabankalan to Bacolod, wasn't his face black and blue and bruised?

A Not very black. It had plenty of scratches, wounds.

Q Wasn't there a lot of bruises so that his face was purplish in appearance?

A No.

Q Didn't you state yesterday that he had on a faded khaki shirt when he was at Kabankalan?

A No, it was a blue shirt.

Q Was it an old patched blue shirt?

A Old, not patched.

Q Was it torn in any place?

A Here (indicating).

Q Was the sleeve completely torn out of the shoulder of this shirt?

A Not very much.

Q Did he wear shoes when he left Kabankalan?

A No.

MR. SIMON: No further questions, sir.

MR. BLACK: No further questions by the prosecution.

COLONEL CHASE: There appearing to be no further questions, the witness may be excused.

(Witness excused.)

COLONEL CHASE: The Commission will recall Cresencio Federez as its witness.

MR. BLACK: While we are waiting for the appearance of the next witness, if it please the Commission, I have been asked by the Office of Civilian Witnesses whether it is possible for them to release Moises Alipala, Roberto Felix Ramos, and Justiniano Quillanguin who have already testified here. Mr. Simon has no objection and this request is made because these witnesses have been here, I believe, for almost

a month and some of them are anxious to get back home.

COLONEL CHASE: Does any member of the Commission desire the appearance of these witnesses again for any purpose?

(No response.)

COLONEL CHASE: They may be released and returned to their homes.

MR. BLACK: Is that all right with you, Mr. Simon?

MR. SIMON: Defense is in accord with that suggestion.

CRESENCIO FEDERIZ

a witness recalled by the Commission, was resworn and testified further as follows through Interpreter Dianala Jo:

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q You testified yesterday with regard to the personal appearance of Vicente Torres. The Commission is interested in further information as to his complexion, that is, whether his skin was dark, or medium, or light as compared to the average Filipino.

A A little bit whiter.

Q To what degree, so that he might be mistaken or considered to be a mestizo, or not that light, by some one who had never seen him before?

A He looks like a mestizo because he is white.

Q With respect to his clothing, did you ever see him with a blue shirt somewhere in his possession between the time he was arrested and the time you saw him last at the dry ditch?

A I have not seen.

Q Do you know where Salong Bago, Occidental Negros is?

A I do not know that Salon Bago.

COLONEL CHASE: Any further questions by the Commission?

BY CAPTAIN LACEY:

Q About how long was his hair when you last saw him?

A His hair was not very long and not very short.

BY COLONEL GUHL:

Q Did he have any gold teeth in his mouth?

A I have not seen, because when he was taken into the jail he could not open his mouth.

Q Was his mouth in the same condition when you last saw him?

A Yes.

BY COLONEL CHASE:

Q Near what barrio, that is, what is the nearest named place, if you know, to the dry ditch where you saw Vicente Torres last?

A Just below the barrio of Talotog.

Q Did you notice during the time you were at the dry ditch whether there was a stream with water in it anywhere nearby?

A Before we arrived at that place we passed one creek.

Q About how far was the nearest place on this creek, as far as you know, from the point at the dry ditch where you were taken by the Japanese and where you sat down, from where you saw him last?

A That creek where we crossed was about the distance from that jitney way out there in the corner of the building.

Q The one with the yellow body that sets up high; is that the one to which you refer?

A Yes.

COLONEL CHASE: Let the record show that the witness indicated a point at a distance of approximately 100 yards.

Q Where was this creek with water in it with respect to the direction in which Vicente Torres was taken when you last saw him; that is, was he taken towards the creek or away from it, or in a direction which would not be either towards or away from it?

A That creek is like this (indicating). Then we crossed there (indicating). There is a road there (indicating) going here (indicating) and that creek is going like this way (indicating). The direction of that creek is like that (indicating) so that this creek could be crossed by us coming this way (indicating) and stopping here (indicating). That creek is like this (indicating) and we were sitting here (indicating). While we were sitting there (indicating), Vicente Torres was brought here (indicating) in this direction (indicating), so I do not know whether he was brought up to that point because I could not turn around. All I know is I could hear voices.

COLONEL CHASE: Will the reporter read the complete answer?

(The answer was read.)

Q Do you know the general direction in which he was taken; that is, you testified yesterday that he was taken toward your rear in the direction in which you were facing; was that direction towards the creek or away from it or parallel to it?

A Going to the creek?

Q The direction in which he was taken when he left you was in the direction of where the creek was that had water, is that what you mean?

A Yes, because that creek is going that way (indicating) and we were sitting there (indicating) and he was brought here (indicating).

Q From the sound of his voice, as he was walking while he was being led away, and from the sound of the groan which you heard, could you make any estimate as to the probable distance that he was taken from you?

A The distance I could not estimate, only I could hear his voice, so I said he must be near me.

Q Was it just a very short distance or could it be as much as 25 or 50 meters? If you don't know, I want you to say frankly, but if you can give any sort of an estimate I would like to have your opinion.

A I could not estimate, but his voice was clear to me.

Q Indicating that he was not taken very far, is that correct?

A Yes.

COLONEL CHASE: Are there any further questions by the Commission?

(No response.)

Are there any further questions by the prosecution?

FURTHER EXAMINATION BY THE PROSECUTION

BY MR. BLACK:

Q At the time you heard Vicente Torres' voice, did you hear any other voices?

MR. SIMON: Defense will object to this as repetitious and not covered by the Commission's examination.

MR. BLACK: I believe it was covered.

MR. SIMON: I believe we have gone over this three times.

MR. BLACK: I am trying to determine where and when he heard the voice.

COLONEL CHASE: The objection is not sustained.

A Yes.

Q At the same time or after?

A After Vicente had spoken somebody else spoke saying, "Silence!"

Q You testified now about this creek. Is that the same creek that you referred to yesterday as the canal, or is that another place?

A The canal is different from the creek. The creek is really a creek.

MR. BLACK: With the permission of the Commission, I would like to ask this question. My request is premature not having asked the question.

Q Were there any other people killed while you were there?

MR. SIMON: Objection as incompetent, immaterial and irrelevant, not included in the Specifications and Charge and not covered by the Commission's examination.

MR. BLACK: I am not trying to charge the accused with any killing.

MR. SIMON: It is immaterial and prejudicial to the accused.

COLONEL CHASE: The objection is sustained in that case.

Q After Vicente Torres was taken away, what did you and the Japanese do?

MR. SIMON: Same objection. It is incompetent,

immaterial and irrelevant, and was not covered by the Commission's examination.

COLONEL CHASE: That was covered thoroughly in his direct testimony yesterday, I think. The objection is sustained.

Q Do you know whether there were any other people killed at that point?

MR. SIMON: We object as it is incompetent, immaterial and irrelevant.

COLONEL CHASE: Objection sustained.

Q You said that you could not tell whether Vicente Torres had gold teeth because he could not open his mouth, is that correct?

A Yes.

Q When you were sitting alongside of him before he was taken away, did he say anything to you?

A Yes.

MR. BLACK: That is all.

COLONEL CHASE: Are there any further questions by the defense?

FURTHER EXAMINATION BY THE DEFENSE

BY MR. SIMON:

Q Didn't you see Torres when he was first brought to the Kempei Tai?

A I saw him when he was already inside the jail.

Q Was that around the end of February, 1944?

A No.

Q When was that?

A The first week of March.

Q Didn't you observe Vicente Torres as he was talking to his fellow prisoners from the date he was confined until he was taken with you on this expedition?

A No.

SCP(1)cm

Q Didn't you see him have about four gold teeth in his mouth?

MR. BLACK: If it please the Commission, I would like to make the same objection to that question that the defense interposed to my question on direct examination.

MR. SIMON: The Commission brought that subject up about the gold teeth, in their examination of this witness.

COLONEL CHASE: The Commission did not bring up the subject of the gold teeth. I think that was gone into exhaustively both on direct and cross-examination.

Objection sustained.

FURTHER EXAMINATION BY THE COMMISSION (Cont'd.)

BY COLONEL CHASE:

Q In which direction from, and how far from, Talotog is the point on the dry ditch where you last saw Vicente Torres?

A South.

Q About how far? You can state it in meters or kilometers, if you desire.

A I could not estimate, but I could only hear the voice.

Q I think you misunderstood my question. How far is the point on the dry ditch, where you were sitting, from Talotog and in which direction from Talotog?

A Our canal was here and there was perhaps about half a kilometer to Talotog.

Q Do you know whether Talotog was north, south, east, or west from the place on the dry ditch?

A It is up from us in that direction where the sun rises.

Q Talotog would be east then from where you were, would it? This is north and this is south (indicating). Talotog

Q Didn't you see him have about four gold teeth in his mouth?

MR. BLACK: If it please the Commission, I would like to make the same objection to that question that the defense interposed to my question on direct examination.

MR. SIMON: The Commission brought that subject up about the gold teeth, in their examination of this witness.

COLONEL CHASE: The Commission did not bring up the subject of the gold teeth. I think that was gone into exhaustively both on direct and cross-examination.

Objection sustained.

FURTHER EXAMINATION BY THE COMMISSION (Cont'd.)

BY COLONEL CHASE:

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Q Do you know whether Talotog was north, south, east, or west from the place on the dry ditch?

A It is up from us in that direction where the sun rises.

Q Talotog would be east then from where you were, would it? This is north and this is south (indicating). Talotog

is here. That would make Talotog east from the point in the dry ditch, is that right?

A Yes.

Q You are sure that it was Barrio Talotog and not some other place?

A Yes from us it is Barrio Talotog.

COLONEL CHASE: I have no further questions. Any further questions by the Commission?

(No response.)

MR. BLACK: I would like to clear up a point, if there is no objection.

FURTHER EXAMINATION BY THE PROSECUTION (Cont'd.)

BY MR. BLACK:

Q You testified that this point was near Barrio Talotog, is that right?

A Yes.

Q From Talotog where did you go?

COLONEL CHASE: I think we have already ruled on that. We covered that yesterday.

MR. BLACK: It may be repetitious, but I would like to clear up the point with relation to the next two places he went. Then if the Commission feels it is superfluous, I will withdraw it.

COLONEL CHASE: Any further questions?

MR. SIMON: Defense has no further questions.

COLONEL CHASE: The Commission would like Lieutenant Ico to determine from the other witnesses available, before they are sent home, whether there is anyone of them who is qualified to give us the location of Salong Bago

is here. That would make Talotog east from the point in the dry ditch, is that right?

A Yes.

Q You are sure that it was Barrio Talotog and not some other place?

A Yes from us it is Barrio Talotog.

COLONEL CHASE: I have no further questions. Any further questions by the Commission?

(No response.)

MR. BLACK: I would like to clear up a point, if there is no objection.

FURTHER EXAMINATION BY THE PROSECUTION (Cont'd.)

BY MR. BLACK:

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A Yes.

Q From Talotog where did you go?

COLONEL CHASE: I think we have already ruled on that. We covered that yesterday.

MR. BLACK: It may be repetitious, but I would like to clear up the point with relation to the next two places he went. Then if the Commission feels it is superfluous, I will withdraw it.

COLONEL CHASE: Any further questions?

MR. SIMON: Defense has no further questions.

COLONEL CHASE: The Commission would like Lieutenant Ico to determine from the other witnesses available, before they are sent home, whether there is anyone of them who is qualified to give us the location of Salong Bago

with respect to Talotog. If any of the witnesses can inform the Commission, we would like to have them called as a Commission witness to clear up this point.

MR. BLACK: Yes, sir.

COLONEL CHASE: The Commission will take a brief recess. The witness is excused.)

(Witness excused.)

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The prosecution will call as its next witness Felipe Yap in support of Specifications 7 and 8.

COLONEL CHASE: The Commission has requested the calling of witnesses who may be able to fix the location of Salong Bago, Negros Occidental, mentioned in Prosecution's Exhibits Nos. 4 and 5, which are the affidavits of Florencia Depra and Emiliano Namon and will return to the subject of these investigations when the availability of such witnesses is determined. In the meantime we will proceed with the case.

MR. BLACK: Do you speak and understand English?

FELIPE YAP: A little.

MR. BLACK: Would you rather testify in your own tongue?

FELIPE YAP: Yes.

MR. BLACK: What is your own tongue?

FELIPE YAP: Visayan.

FELIPE YAP

a witness for the prosecution, being first duly sworn,
testified as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your name?

A Felipe Yap.

Q What is your occupation?

A Laborer.

Q How old are you?

A Nineteen years old.

Q Are you married?

A No.

Q How much schooling did you have?

A Sixth grade.

Q Where did you live during the Japanese occupation of
Negros?

A I lived in the town of Talisay.

Q Do you remember where you lived during the month of
April, 1944?

A Yes.

Q Where?

A In the town of Talisay.

Q Were you ever arrested by the Japanese?

A Yes.

Q Who arrested you?

A Japanese.

Q Who were the Japanese, do you know?

A I do not know them.

Q Where did they take you?

A To Bacolod.

Q What place in Bacolod?

A Bacolod Kempei Tai.

Q What was the name of the place?

A Private Hospital.

Q And where did they put you?

A They put me in the jail.

Q And how long were you kept in that jail?

A I was four days there.

Q During the four days you were there were you questioned?

A Yes.

Q By whom?

A Japanese.

Q Do you know who questioned you?

A I do not know.

Q Were you mistreated in any way?

MR. SIMON: Objection until it is tied into the accused in this action. The witness doesn't even know who arrested him, who questioned him, or the names of the Japanese.

MR. BLACK: He testified he didn't know who arrested him, confined him, or questioned him.

MR. SIMON: Unless a foundation is shown to tie up the Japanese who arrested this man in this town with the accused, this testimony serves to do nothing but prejudice the Commission.

MR. BLACK: I will withdraw the last question.

Q Who else was arrested with you?

A Domingo Mananquel, Estanislao Magbanua, Anacleto Allie, and Nicolas Rafa and no more.

Q Were they all imprisoned with you at the Bacolod Kempei Tai jail?

A Yes.

Q Do you know the accused, Kawamori?

A Yes.

Q If you see him in this room will you point him out?

A Yes.

Q Go over and point him out.

A He is here (indicating).

MR. BLACK: The record will show the witness pointed out the accused.

Q How many times before today have you seen the accused?

A Four.

Q When and where were those four times?

A When I was still in jail.

Q Did you ever see him before you went to that jail?

A No.

Q What, if anything, happened to Domingo Mananquel while he was in the Bacolod Kempei Tai jail?

MR. SIMON: Just a moment now. The defense will object to that question until some foundation is now built up to establish on what this answer is going to be based. Did he see something happen to him or did he hear of something that happened to him. Was he present or did he just hear about it. These Filipino witnesses have a tendency, when we

ask them this type of question, to state a certain thing happened. When you start to go further into it, you find out that they were not even present; that another person saw it and told them about it and they have really heard it from a third person, but the prejudicial remarks have already gone into the Commission's mind. I think they should establish a foundation first.

COLONEL CHASE: Mr. Black, suppose you establish that by questioning the witness as to whether he saw him in jail?

MR. BLACK: He has already stated on direct examination that Domingo Mananquel was in the jail with him at the same time.

COLONEL CHASE: He stated that he was arrested with him, but I don't think you ever put the people in the jail.

Q Did you see Domingo Mananquel in the Kempei Tai jail in Bacolod?

A Yes.

Q And when did you see him?

A At the cell, because we were together.

Q What did you see when you were together?

A He has bruises on his body.

Q What kind of bruises?

A Swollen.

Q What kind of swelling?

A Blackened.

Q Blackened?

A Blackened and swollen.

Q Any other color?

A No more.

Q Where were those black bruises on his body?

A On the shoulder.

Q Any other place?

A On both shoulders.

MR. SIMON: If it please the Commission, there is no testimony showing where Mananquel received these bruises. As defense, I have just happened to represent an accused Japanese war criminal who inflicted the bruises on this particular man. I invite the Commission's attention to the case of the United States of America versus Akira Takeshita. Specification No. 2 of that case involves Felipe Yap and Mananquel, and this is a duplication of Specifications 7 and 8 in this case right here. It is the same point, the same victims, and the same circumstances. I represented that accused, and he was sentenced for that crime. If the Commission please, I request that it take judicial notice of the Specification in that case. I have in my hand here a copy of the Specification in the Akira Takeshita case.

COLONEL CHASE: Did I get your attitude correctly? Is it that you contend this witness' testimony is all inadmissible because someone under the accused has already been tried for the Specification he is charged with here?

MR. SIMON: Sir, Akira Takeshita was under the direct command of Colonel Yamaguchi. The record shows that.

COLONEL CHASE: There is no evidence in this record to that effect. The objection is not sustained. The

prosecution may continue.

Q Did you see Domingo Mananquel before he was brought to the Kempei Tai jail?

A Yes.

Q Describe his appearance when you saw him.

A His height is five feet six.

Q Did you see any bruises or any swelling on him when he was brought in to the jail?

A None.

Q After he was brought in to the jail, where was he placed?

A We were in the same cell together.

Q Was Domingo Mananquel investigated?

A Yes.

Q Where?

A Right there in our cell.

Q Did you see him questioned?

A No.

Q Did you see him beaten?

A No.

Q Did you see him when he came from the investigation room?

A Yes.

Q Was that the first time when you saw the blackened bruises on him?

A Yes.

Q What was his physical condition at that time?

A His pants were short. He has a jacket with short sleeves.

MR. BLACK: (To Interpreter Dianala Jo) Tell him to answer the question. I did not ask him for his dress but

what his physical condition was.

COLONEL CHASE: Read the question back from the record and have him present it to the witness again.

(The reporter read the previous question.)

A With bruises.

Q Did you see his back?
A Yes.
Q What did you see?
A Bruises on his back and at the back of his head.
Q When you saw him, was he standing up, sitting down, or lying down?
A Lying down.
Q How?
A Like this (indicating).
Q Indicating that he was lying on his back?
A Lying on his back.
Q How could you see his back if he was lying on it?
A I saw his back at the time he was coming in.
Q Was he coming in alone or was somebody helping him?
A He has a companion.
Q Who was his companion?
A I do not know.
Q Was the companion helping him?
A Yes.
Q Was he unconscious at that time?
A No more.
Q Do you mean he was walking while he was unconscious?
A He was a little bit conscious.
Q Did you see him go into the room?
A Yes.
Q Did he lie down or sit down, or what?
A The first time he was sitting. Later on he trembled like this.
Q He what?

A He trembled like this (indicating).

COLONEL CHASE: Let the record show that the witness indicated by gestures with his arms that the arms and hands were trembling.

A (Continuing) Later on the Japanese who were watching looked at him. He saw him inside the jail, that same guard.

Q Just a moment. Does that complete your answer, or is ~~there~~ something else?

A Something else.

Q When you say 'he saw him dead,' what do you mean and to whom are you referring?

A Domingo Mananquel.

Q How do you know he was dead?

A Because he was no longer moving.

Q Was he breathing?

A No.

Q Were his eyes open or shut?

A Open a little.

Q How do you know he wasn't breathing?

A Because when we came near we touched his breast and he was no longer moving.

Q Who is "we"?

A I.

Q What was done with the body?

A The Japanese that was guarding came inside of the jail with a mat and wrapped the dead and both ends were tied with the rope.

Q Then what happened?

A After that the dead was left there.

Q Where?

A In our cell.

Q For how long?

A About a half a day.

Q Then what happened?

A After that, when we were about to go out that day, that dead was still there and we were brought to the Provincial Jail and we were retained there.

Q What happened to Domingo Mananquel's body?

A He has bruises here (indicating).

MR. BLACK: I will consent that that be stricken out.

Q Where did they take the body, if any place?

A In the place where we were imprisoned his body was.

Q Did they ever take it out of that place?

A No.

COLONEL CHASE: Ask him if he knows what became of the body, interpreter.

(Translated to the witness by Interpreter Dianala Jo.)

THE WITNESS: (Through Interpreter Dianala Jo) We do not know because when we left there the dead body was still there.

Q Were any parts of Domingo Mananquel's body broken?

A Here at the hip.

Q Any other place?

A And on the right side of the hip.

Q How do you know it was broken?

A Because when we were in jail he could no longer sit down and he is always lying down.

Q Was Domingo Mananquel ever taken out of the Kempei Tai Jail from the Bacolod High School in a truck or anything else?

A No.

Q Was anybody else ever taken out?

A Yes.

Q Who?

A Only one man.

Q Who was the man?

A I do not know.

Q What did Domingo Mananquel do for a living?

A Fishing.

Q Did you ever sign a statement for anybody in connection with this case?

A Yes.

Q Do you know who it was who asked you to sign this statement?

A You.

Q I asked you to sign a statement?

A Yes.

Q Did you sign the statement?

A Yes.

Q When was that?

A He went to my camp.

Q What camp?

A OCCW.

Q Are you nervous or confused?

A No.

Q You are perfectly calm?

A Yes.

Q Do you mean that I asked you to sign and that you signed a statement, or that I spoke with you?

A You spoke to me.

Q Why did you say that I asked you to sign and that you signed a statement for me?

A I only forgot.

Q You were mistaken?

A Yes.

Q You signed a statement for somebody else, didn't you?

A No.

COLONEL CHASE: Don't get impatient with these Filipino witnesses, Mr. Black. You just get them confused. Just keep calm and eventually they will realize what you are trying to get at. They don't have a very wide outlook of life at home. They do get mixed up. If you get exasperated with them it confuses them.

MR. BLACK: May we have about a five-minute recess, not for my benefit, but maybe for my benefit, too?

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

The Commission was informed during this recess that there is a young lady civilian employee who knows the geography of the vicinity of Talotog, who is here to clear up the geographical questions. To permit her to get back to her work, we will excuse the witness now on the stand temporarily and call her.

(Witness temporarily excused.)

MR. BLACK: The prosecution will call as its next witness Dolores Banas.

DOLORES BANAS

a witness for the prosecution, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your full name?

A Dolores Banas.

Q Would you spell that, please?

A D-O-L-O-R-E-S B-A-N-A-S.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q Miss Banas, are you familiar with the country in the vicinity of Talotog, Occidental Negros, and Salong, Bago, Occidental Negros, and those places?

A Yes, sir.

Q How did you acquire your knowledge? Are you from that part of the country?

A I am from Bago, Negros Occidental, and those two barrios you mentioned are under the Municipality of Bago.

Q The Commission has had certain testimony with regard to an incident that occurred near Barrio Talotog and also certain other evidence as to certain occurrences in the vicinity of Salong, Bago. Will you tell the Commission about how far apart these two places are?

A Salong is about eight kilometers from Sum-ag, and from Salong to Talotog it is about three kilometers.

Q Then, roughly, the two places would be perhaps from

eight to ten kilometers apart, depending on how the roads ran, is that correct?

A No, sir.

Q About how far would the total distance be between the two places the way the roads ran?

A About three kilometers.

Q About three kilometers apart?

A Yes, sir.

Q Do you happen to know the location of the rice plantation of Mr. Jovoneta, near Salong?

A I don't know his plantation.

Q In general, these two localities of Salong and Talotog are in the same municipality and are about three kilometers apart, is that correct?

A Yes, sir.

Q Is the distance directly across country from one place to the other any different than the distance by road?

A I don't get the question.

Q If you walked directly across the country from one place to the other place and did not follow the road, would the distance be any different than the three kilometers that it is by road?

A It is shorter to cross it by road.

Q Could you give the Commission an estimate of the probable distance directly across country?

A From Salong to Talotog?

Q Yes.

A I don't know. I have not crossed that way.

Q But it would be somewhat less than the distance by

road, did I understand you correctly? Do they lay on the same road?

A The same road.

Q So the distance by road would be about the distance if you walked from one to the other across the country?

A No.

MR. SIMON: The way I gather it from the testimony, they are both on the road and the shorter line is to take this road.

Q Is that what you mean?

A Yes, sir.

COLONEL CHASE: Any questions by the prosecution?

REDIRECT EXAMINATION

BY MR. BLACK:

Q From Bacolod is the next place or town Sum-ag?

A Sum-ag is the next place to Bacolod.

Q After Sum-ag do you know where Barrio Abuanan is?

A Yes, that is near Sum-ag.

Q Is that inland or on the main road?

A Inland.

Q About how far inland is Barrio Abuanan?

A From Sum-ag?

Q Yes, from Sum-ag off the main road?

A About ten kilometers.

COLONEL CHASE: We have here a map of that vicinity. Will you come up here where you can see the map?

(Off record discussion.)

COLONEL CHASE: Let the record show that the witness located the direction of Salong on a road running

northwest from Talotog and about one-third of the distance from Talotog to the main road, running generally north and south along the west coast.

BY MR. BLACK:

Q The road towards Talotog goes in the same direction or continues on to Barrio Abuanan?

A Yes, sir.

COLONEL CHASE: Are there any questions by the defense?

MR. SIMON: Defense has no questions, sir.

COLONEL CHASE: The witness will be excused.

(Witness excused.)

MR. BLACK: If it please the Commission, I would like permission to recall Cresencio Federez for the purpose of showing him this map and having him indicate on the map or on a diagram the places and the roads that this witness testified about and also in connection with his testimony.

COLONEL CHASE: The Commission requests that that be done as we are trying to clear up this question of geographical locations or points. However, before we get him to indicate on the map, you had better establish by questioning that he has some comprehension of what a map is.

MR. BLACK: If the Commission would rather question him it is all right with me.

COLONEL CHASE: I don't want to get him up here and have him totally at a loss as to what a map is. I would like to have you question him to clear up these points, but establish for the sake of the reviewing authority that he

has some comprehension of what a map is.

CRESENCIO FEDEREZ

a witness recalled by the prosecution, having been previously duly sworn, testified further as follows through Interpreter Dianala Jo:

FURTHER DIRECT EXAMINATION

BY MR. BLACK:

Q Mr. Federez, did you ever see a map of the places that you testified about with regards to Vicente Torres' incident?

A If I will be asked to draw now, I could draw and indicate where those places are.

Q If a map were shown to you, would that assist you in making that drawing?

A Yes.

MR. BLACK: Colonel, would you like to question him with regards to those places or to indicate to him the questions you have in mind with this connection?

EXAMINATION BY THE COMMISSION

BY COLONEL GUHL:

Q Can you read a map like this (indicating)?

A Yes.

Q Will you come here?

A Yes.

(The witness left the witness stand and approached the map.)

Q See if you can orient yourself here now. Do you know where Bago is?

A Bago is here (indicating).

Q Starting from this point here (indicating) where the

has some comprehension of what a map is.

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A Yes.

MR. BLACK: Colonel, would you like to question him with regards to those places or to indicate to him the questions you have in mind with this connection?

EXAMINATION BY THE COMMISSION

BY COLONEL GUHL:

Q Can you read a map like this (indicating)?

A Yes.

Q Will you come here?

A Yes.

(The witness left the witness stand and approached the map.)

Q See if you can orient yourself here now. Do you know where Bago is?

A Bago is here (indicating).

Q Starting from this point here (indicating) where the

airfield here in the City of Bacolod is, will you show us what road you took?

A We went down the main road to Sum-ag.

Q Where did you go from there?

A From Sum-ag we went up to the mountains.

Q This is generally north and south this way (indicating) and east and west this way (indicating). Here are your mountains here.

(Off record discussion.)

COLONEL CHASE: The witness indicated on the map that they turned to the southeast from the coast road at a point a short distance south of Sum-ag going toward Abuanan and that this road passes through Talotog.

MR. BLACK: May I ask one question here?

FURTHER REDIRECT EXAMINATION

BY MR. BLACK:

Q If you pass Sum-ag and go to Abuanan, would you not pass Talotog?

A We did not pass Talotog. We started at this point (indicating), at Sum-ag, and we stopped at this point (indicating).

EXAMINATION BY THE COMMISSION

BY COLONEL GUHL:

Q About how far is that from the main road, that point; about how many kilometers?

A Five kilometers, more or less.

COLONEL CHASE: For the purposes of giving him some opportunity to estimate distances, we will at this time scale from the map and tell him the distance from the road junction to Talotog so he will have something with which to compare.

MR. SIMON: Perhaps an inquiry should be directed as to how long they marched.

BY COLONEL CHASE:

Q The size of this map is such that it shows that the distance from the road junction where you turned off the coast road near Sum-ag over to Talotog to be four kilometers. It is six kilometers from the road junction here (indicating) where you turned off the coast road to Talotog. Will that help you in locating the points where you stopped? Roughly, that would make this point here (indicating) about one kilometer from Talotog, which would be about three kilometers from Talotog and so on. Can you show us on the map as nearly as you can tell the point near Talotog where you probably stopped?

A Here (indicating).

BY COLONEL GUHL:

Q Do you know whether Barrio Salong is in Bago or near Bago?

A I do not know.

Q From this point that you indicated where you stopped, was it before Talotog?

A Yes.

Q Where did you go?

A We stopped here (indicating). Then while we were there Vicente Torres was brought in this direction (indicating). We stopped here (indicating). Vicente Torres was brought in this direction (indicating).

COLONEL CHASE: Let the record show the witness indicated westward towards the ocean.

Q About how far beyond the creek did you leave the road in Negros.

A I could not estimate, but it was near. It was a little bit more than 100 meters. While we were there -- while we were sitting there (indicating), at this point they took Vicente Torres towards this way (indicating south). Where I was sitting I could hear.

Q About how far did you go from the road when you left the road to the dry ditch?

A That is very near because I could hear their voices.

Q No, when you left the road, how far was it to the dry ditch where you sat down?

A Just alongside of the road.

Q The ditch was alongside of the road?

A Yes.

Q Do you remember a barrio or a group of houses near the creek which you crossed?

A I could not, but from this place (indicating) there are houses there where I could see.

COLONEL CHASE: Any further questions by the Commission?

MR. BLACK: Would there be any objection if I were to retrace for the record his route from Bacolod in accordance with this diagram that he drew?

MR. SIMON: Is this diagram supposed to be to scale-- any scale?

MR. BLACK: No scale. There is no scale. I merely want the directions and places in the record.

MR. SIMON: He indicated the position where he

Q About how far beyond the creek did you leave the road in Negros.

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MR. SIMON: Is this diagram supposed to be to scale-- any scale?

MR. BLACK: No scale. There is no scale. I merely want the directions and places in the record.

MR. SIMON: He indicated the position where he

stopped on the road to be two-thirds of the way from the creek to Talotog. Is that approximately correct? He seems to be fairly adept at this map sketching, and his other distances seem to be proportionate, so it seems to me it is approximately to scale.

MR. BLACK: Either I can ask him or you may ask him the distances to any particular point.

COLONEL CHASE: I think we are all equally interested in getting this thing definitely and accurately clear. Suppose, Mr. Black, you see if you can get in the record by questions whether he could make this diagram by scale or even indicate distance.

MR. BLACK: I will try to clear that during the course of these few questions.

FURTHER REDIRECT EXAMINATION (Continued)

BY MR. BLACK:

Q You left Bacolod and you followed the main road?

A Yes, we were in the truck.

Q And was Sum-ag the next town you stopped at?

A Yes.

Q And from Sum-ag, in which direction did you go?

A We followed the road going to Abuan-an.

Q In which direction is that?

A East.

Q Is that also the road that goes to Talotog?

A Yes.

Q Can you approximate how far from Sum-ag and or how near Talotog is the point where you and the others stopped at the canal?

A We are far from Sum-ag and we are nearer Talotog.
Q Could you tell approximately how near Talotog you were?
A Yes.
Q Tell us?
A About one and one-half kilometers.
Q From Talotog?
A Yes.
Q Now, on your way to this point you stopped to cross a creek?
A Yes.
Q All right, can you tell us approximately how far away from the creek was it from the point where you stopped?
A Not even one half kilometer from the creek to the place where we stopped.

MR. BLACK: I have no further questions.

COLONEL CHASE: Questions by the defense?

MR. SIMON: No questions, sir.

COLONEL CHASE: The witness will be excused.

(Witness excused.)

MR. SIMON: Sir, probably since all of the evidence is in on that particular point, I think we ought to clarify the status of Prosecution's Exhibits 4 and 5, and act on defense' motion to strike them from the record. Defense would at this time move to strike from the record Prosecution's Exhibits 4 and 5 on the grounds they are incompetent, irrelevant and immaterial, and have no bearing on Specification 5 of this case. Firstly, there has been no geographical identity of the place where these people examined these three bodies, and the place where Cresencio Federez stated that he stopped

about half a kilometer from a creek. The affidavits do not refer to the finding of the body of Vicente Torres. The description -- the detailed description of the person found by the side of a creek with his legs touching the water do not conform with the description as given to us of Vicente Torres. The first distinguishing feature, probably the most outstanding, is the color of the hair. That is something not affected by a man's death. The witnesses have testified that Vicente Torres --

MR. BLACK: (Interposing) If it please the Commission, I don't know how long this is going to take. This may be a half-hour summation of evidence in the record by the defense counsel. I don't like this objection to be a summation of argument. The defense counsel is merely making an objection.

COLONEL CHASE: He has a right to present his reasons for his motion to strike. The Commission will hear the reasons.

MR. SIMON: They stated in direct testimony that Vicente Torres had red hair. The body -- one of the bodies which they found -- was of a man with long dark hair. Next we come to the discrepancies in the clothing worn. One said he had a khaki shirt with patches on it.

COLONEL CHASE: I would like to interrupt you briefly to **locate** that clause which you quoted "long dark hair."

MR. SIMON: Yes, "long dark hair," but does not say it is red. It does not say it is reddish. It says it is dark, ~~not~~ reddish. Next, the clothing he wore. There was nothing about a red undershirt. We found that his companion

who departed with him from the high school at the Kempei Tai state he had a khaki shirt with short sleeves. That is the man whose story should be listened to. Both Prosecution's Exhibits 4 and 5 state the body was clothed in a new blue shirt, with long sleeves. In Prosecution's Exhibit No. 5 --

COLONEL CHASE: Just a moment until we check that.

MR. SIMON: It is the twelfth question in Prosecution's Exhibit No. 5, "He was wearing a new blue shirt."

I have never seen a new blue shirt that looks like a faded blue shirt or a torn patched khaki one.~ Also, the body had three bayonet wounds on it. The testimony -- the only evidence we have in this case was that five men wiped something off of their bayonets, and Kawamori was wiping his sword, which indicates a sword wound someplace. Yet this body has none of that on it. The most outstanding things of these two exhibits, although defense is not now interested in summarizing its case, is the similarity of the language. Perhaps some of the new members of the Commission are not familiar with how these War Crimes investigations are conducted by War Crimes Investigating Detachment. They go out to build up a case. If the members of the Commission will lay before them Prosecution's Exhibits 4 and 5, defense will show you a similarity of language in the affidavits that is more than coincidental. In other words, gentlemen, the investigating officer dictated -- he dictated both of these statements for signature by Namo and Depra. Now, reading from the sixth question -- reading first from Prosecution's Exhibit 4, the eighth question, compare that with Prosecution's Exhibit 5, the twelfth question. We find the identical words, I quote: "I found one body by

the side of the creek with his legs touching the water." Prosecution's Exhibit No. 5 says in the answer starting with the words, "by the side of the creek with his legs touching the water." That is identical phrasing.

COLONEL CHASE: Mr. Simon, I think you are getting here to a point that more properly belongs in your closing argument of the case for final decision. As I remember, your original objection was based on the fact that these two documents as presented were immaterial and irrelevant to the issues of the case. Please confine your argument to that.

MR. SIMON: Also, my objection is based on the fact of the identicalness of the language used in both of these exhibits. Their probative value should be examined. When the Commission reads from one affidavit to another, the identical description and wording is too identical to be a coincidence. You will not find two persons who express themselves in the identical same fashion and phrasing of the sentences used there. That suspicion is confirmed when you compare these two affidavits. The defense merely wishes to invite the Commission's attention to this identical question. In Prosecution's Exhibit No. 4, the answer to the ninth question should be checked to the thirteenth question in Prosecution's Exhibit No. 5.

COLONEL CHASE: As I remember, your original motion was not based on the identicalness of these two affidavits, but it was based on the matter of their materiality and relevancy in this particular case. So far you have not given any argument along that line.

MR. SIMON: Sir, the argument of the defense is

also based on the geographical discrepancies of these affidavits. There is nothing showing these bodies were found anywhere near where Vicente Torres was last seen. That is the first objection. Secondly, the description of the bodies do not tally with Vicente Torres. There is no mention made in the affidavits that any of these three bodies belonged to Vicente Torres. The recital of the dead bodies serves only to blind the Commission to the real fact that they can't go out and find the bones of Vicente Torres. We feel that should be stricken from the record until prosecution can produce a live witness who can say he saw Vicente Torres' body or bones, and he can recognize it from the skeleton or any other means.

COLONEL CHASE: The matter of the final ruling on this motion is one for the Law Member to make. Before making this ruling, I would like to consult the other members of the Commission and the Commission will go into closed session for a very few minutes.

(Members of the Commission retired for executive session.)

COLONEL CHASE: The Commission is in open session. It is the opinion of the Law Member that the materiality and relevancy of Prosecution's Exhibits 4 and 5 have been sufficiently established. The motion of the defense to exclude is therefore denied and the exhibits will remain in evidence.

The Commission will now recess until 1300 this afternoon.

(The Commission recessed at 1125 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Let the record show that when the Commission reconvened all the members of the Commission, the prosecution, defense counsel, and the accused 'with personal interpreter were present.

FELIPE YAP

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION (CONT'D)

BY MR. BLACK:

Q Did you ever testify before a court or a Commission?

A Not yet.

Q Today is the first time that you have ever testified in any case?

A Yes.

Q Now, in April of 1944 when you and your companions were arrested and placed in the Kerpei Tai jail who were your companions?

A Domingo Mananquel, Nicolas Rafa, Anacleto Allie, and Estanislao Magbanua.

Q Were you all arrested and imprisoned at the same time?

A Yes, sir.

Q At the same place?

A Yes.

Q Were you all released from the same place at the same time?

A No.

Q Who was released first, if you know?

A I do not know.

Q Were you released before the others?

A No.

Q Were you released after the others?

A Together.

Q Tell us who was released with you at the same time?

A Nicolas Rafa, no more.

Q Nicolas Rafa was the only other person who was released with you at the same time, is that right?

A No, we were many.

Q Were Estanislao Magbanua and Domingo Mananquel released with you at the same time?

A No.

Q Do you know when Estanislao Magbanua was released?

A I do not know because when we left our cell they were still there.

Q You were released and Estanislao Magbanua remained in the Kempel Tai Jail, is that right?

A Yes.

Q Did Anacleto Allie remain in the cell when you were released?

A Yes.

Q Before you were released did you see Magbanua investigated?

A Yes.

Q Do you know who investigated him?

A Yes.

Q Do you know the man's name?

A When we were in jail he was brought to another room and investigated there and we could not see anybody. While there the noise and the bangs were the only things that we could hear. When he returned to the cell, our cell, we saw that he was already groggy because his arms were swollen on both sides and the back of his head had bruises.

MR. SIMON: If it please the Commission, defense hates to cut the witness off but I believe the question has been asked and answered and we have 12 other items contained in his answer now. We request that they continue the interrogation.

MR. BLACK: I would ordinarily consent to the defense's request but --

COLONEL CHASE: It is a little difficult because of his education for counsel to get an account of what actually happened from this witness. Therefore, the law member is inclined to give him considerable latitude in the form of his questioning. You may proceed along the present lines.

Q Are you finished with your answer?

A Not yet.

MR. SIMON: What question is he now answering? There is nothing to show what question this witness is now answering.

MR. BLACK: May we have the last question read?
(The last question was read.)

COLONEL CHASE: The law member has already ruled. The counsel for the prosecution will continue.

MR. SIMON: Sir, the prosecutor says "ask him". The interpreter turns to the witness and he probably tells the witness, "ask him". Now, the witness is going to respond to what?

COLONEL CHASE: I don't know either, but if defense will wait a minute we will find out. Please don't interrupt the proceedings, Mr. Simon. I want him to have a chance to complete his examination and find out what this witness knows about the case. We can not follow normal procedure in this case. The Commission wants to know what this witness knows about the specifications that he is supposed to testify about.

Q Please continue.

A While he was in our cell we saw him to be groggy already. He was lying flat on his abdomen, the Japanese that was guarding him came inside to verify whether he was dead already. He examined the eyes and examined to see whether he was breathing yet. He went out right away and called his Japanese companions.

The Japanese that I saw had something like the instrument used by a physician and examined him. Now that he is dead that same Japanese returned back to the cell where we were bringing a mat and wrapped the dead body. No more.

COLONEL CHASE: Will the reporter please read that entire answer?

(The answer was read.)

Q This instrument that you said is sometimes used by physicians, where did this man hold it and what did it look like?

A Here in the ears (illustrating).

Q What was it, how long was it?

A Like this (indicating).

MR. BLACK: May the record show the witness indicated about 30 inches.

Q Where was the other part of the instrument?

A On the end.

Q Was this instrument in the ears of the Japanese or another part of the body?

A He placed it on his ears and examined the dead.

MR. BLACK: Mr. Simon, would you have any objection if the record showed the witness' referring to a stethoscope?

MR. SIMON: No.

Q Who is this you are talking about?

A Domingo Mananguel.

Q Are you sure about that?

A Yes.

Q You are not talking about Magbanua?

A No.

MR. SIMON: Will the reporter read back the previous answer and this last question and answer?

(The requested portion was read.)

Q Was Domingo Mananguel released from the jail?

A How could he be released because he was already dead right there in the cell where we were.

Q Do you know what was done with his body?

A Yes.

Q Tell us what was done?

A On that same day he was brought to the investigating room.

MR. SCHULTZ: May I get the permission from the Commission to straighten out my own notes and for the record? Is this testimony about Domingo Mananguel, that he was dead and that he saw this stethoscope?

MR. BLACK: Whatever he is testifying he is testifying with relation to Domingo Mananguel.

COLONEL CHASE: I think in the beginning he mentioned someone else.

MR. BLACK: He mentioned the name.

COLONEL CHASE: The question was asked about Magbanua and he proceeded to reply and then as he told his story it became apparent that he was talking about Domingo Mananguel.

MR. SIMON: My notes show that he was talking about Magbanua and then the prosecutor said Mananguel.

MR. BLACK: Now, just a minute --

COLONEL CHASE: I think the original question related to the other man. He evidently misunderstood the question. As the story unfolded it became apparent that the story related to the person, Domingo Mananguel, mentioned in Specification 7. Then in order to clear up the point as to whom he had been talking about Mr. Black asked the question and got a definite answer from him that he had been talking about Domingo Mananguel. It was confused in the beginning but I believe it is now straight.

MR. SIMON: If it please the Commission, I don't believe it is a matter of confusion. When the man was asked definitely to tell a story about Mananquel, how he was taken out of the cell --

COLONEL CHASE: Those weren't the circumstances at all. The story that he told **agreed** substantially; except, as to some details that he didn't mention this morning, with the story which he told this morning with regard to that man Mananquel and counsel by questioning asked him specifically concerning whom he had been talking. He then without any suggestion stated that he was talking about Mananquel.

MR. SIMON: Sir, in his recital of the death of Mananquel this morning he said he was brought in, he was a little bit conscious, he trembled, and he was dead. Now he is talking about a man to whom they are putting a stethoscope on, checking to see if he's dead. I don't believe this confusion is in my mind.

COLONEL CHASE: This discussion is completely superfluous. This is just taking time and serving no purpose. I would like to have Mr. Black proceed.

Q After Mananquel's body was placed in ~~or around the~~ ~~that~~ mat as you said, what happened to ~~it~~ then?

A He was still dead there in our cell.

Q For how long did the body remain in that cell?

A About one half night?

Q What do you mean by "one half night"? Do you mean it was there until part of that night?

A That morning when he was killed --

MR. BLACK: I move to strike that unless you would rather have it stay in, Mr. Simon.

MR. SIMON: I would rather all his story remain in.

Q Continue.

A On the morning when he was dead.

Q Did he die the same day he was investigated or did he die on the following day?

A On that same day he was killed.

Q Was the body taken out of the cell?

A No, his body was brought inside of our cell.

Q When you said before that it remained in the cell until half the night, what did you mean?

A When he died that morning he was not taken away yet. He was still there.

Q When was he taken away?

A He was not taken away while we were still there. After four days that we were released we could not know where they brought the body.

Q Whose body are you talking about?

A Domingo Mananquel.

Q Did you ever talk to me before today?

MR. SIMON: The defense requests the reason for this line of interrogation. We object to **this** being improper direct examination.

COLONEL CHASE: The prosecution may continue.

A No.

Q Did you ever see me before today?

A Yes.

Q Did I ever ask you any questions?

A Yes.

Q And you told me certain things?

A No more except what had happened which I told him.

Q Was anybody -- will you strike that -- was anyone of **the** four, Rafa, Magbanua, Mananquel or Allic taken out of the cell alone at any time while you were there?

A No.

Q Do you recall telling me anything about a truck?

MR. SIMON: The defense will object to this line of questioning because apparently prosecution is trying to impeach its own witness.

MR. BLACK: If it please the Commission, I am not trying to impeach this witness. The Commission will realize the difficulty that the prosecution is encountering in attempting to get the story from the witness. He has difficulty in telling a coherent story and the prosecution is not, by any means, **trying to lead or trying to inject any testimony into** the mouth of its witness. The prosecution is merely trying

Q Whose body are you talking about?

A Domingo Mananquel.

Q Did you ever talk to me before today?

MR. SIMON: The defense requests the reason for this line of interrogation. We object to ~~this~~ being improper direct examination.

COLONEL CHASE: The prosecution may continue.

A No.

Q Did you ever see me before today?

A Yes.

Q Did I ever ask you any questions?

A Yes.

Q And you told me certain things?

A No more except what had happened which I told him.

Q Was anybody -- will you strike that -- was anyone of ~~the~~ four, Rafa, Magbanua, Mananquel or Allic taken out of the cell alone at any time while you were there?

A No.

Q Do you recall telling me anything about a truck?

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MR. BLACK: If it please the Commission, I am not trying to impeach this witness. The Commission will realize the difficulty that the prosecution is encountering in attempting to get the story from the witness. He has difficulty in telling a coherent story and the prosecution is not, by any means, trying to lead or trying to inject any testimony into the mouth of its witness. The prosecution is merely trying

to help the witness in bringing out what he knows.

COLONEL CHASE: The objection is not sustained. The Commission desires and instructs the prosecutor to follow such line of questioning, if possible, as will elucidate what, if anything, this witness knows. It is obvious from the testimony during the time that he has been on the stand that he is a man of very limited understanding and if anything is to be gotten from his testimony at all the ordinary procedure in connection with the examination of witnesses obviously cannot be followed, and the prosecutor is directed to follow reasonable means to attempt to bring out to the Commission what he may know about this case.

MR. BLACK: Will the reporter please read the last question.

(Reporter read the last question.)

A No.

Q Do you recall telling me anything about somebody's body being taken out on a truck?

MR. SIMON: If it please the Commission, the defense objects to this line of questioning. This witness understands a little English. The prosecutor keeps asking, "Didn't you tell me." We are not hearing the witness' story. We are hearing the prosecutor's story.

COLONEL CHASE: Mr. Simon, I have ruled on this matter several times. I hate for it to become necessary to invoke the memorandum of December 5th regarding the maintenance of decorum and orderly procedure in this Court. I have ruled on this objection at least five times, and I wish

to make it plain to you now that I have directed the prosecutor to find out what, if anything, this witness knows about this case. I do not want him interrupted at this time.

MR. SIMON: Sir, is it the President's ruling that we are not to interrupt the proceedings with proper objections, in which case we feel we cannot defend this accused.

COLONEL CHASE: You have made an objection, and I have ruled on the objection. You may, if you wish, object to each question and submit the same objection for them. The ruling will be against you under those circumstances. This is the most unusual witness we have had in this case. It is the function of the Commission, if possible, to determine the facts in the case. That is what I am trying to have the prosecutor do, bring out any facts he can from this witness. Certainly this witness' testimony, since you have started to object, has not been harmful to the accused.

MR. BLACK: May we have the last question, please.

(Reporter read the last question.)

Q I show you a paper and ask you to look at it. Don't read it. Do you recognize the signature on it? I ask you to look at the signature.

COLONEL CHASE: Let the record show that the paper being shown to the witness is folded in such a way that none of the text and only the signature is visible to the witness.

Q Do you recognize that signature?

A That's mine.

MR. BLACK: Prosecution would like to offer this in evidence as Exhibit No. 8.

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A That's mine.

MR. BLACK: Prosecution would like to offer this in evidence as Exhibit No. 8.

MR. SIMON: What is it supposed to be? Let me see.

Defense would like to ask a preliminary question for purposes of laying an objection.

BY MR. SIMON:

Q Do you read English?

A No.

Q And you don't know at all what is on this paper?

A No.

Q Were you told if you signed it you would help put a Japanese away in jail?

MR. BLACK: I thought the defense counsel was asking a preliminary question and not cross-examining the witness.

MR. SIMON: I withdraw that question.

It is obvious, sir, the witness does not know what is on the paper, but it is a statement he signed and I object to it.

MR. BLACK: Before I show this paper to the President of the Commission, I would like to ask the witness one or two questions in reference to it. I will withhold for the time being my offer --

MR. SIMON: I don't believe this ought to be in the hands of the President of the Commission or any Commission member.

COLONEL CHASE: The President has not looked at the document yet.

MR. SIMON: (continuing) Until some ruling is made as to whether it will be received in evidence.

COLONEL CHASE: What does this document purport to be?

MR. BLACK: This document purports to be a signed statement by the witness. I mean it is entitled an affidavit, but it is not subscribed or sworn to, and there is no date on it. It merely has the signature of the witness.

COLONEL CHASE: Before ruling on this, I would like to have the interpreter take this paper and show it to the witness and ask him if he can read it.

A I could not read very well because I know very little and my eyes are defective.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q Did you sign this paper?

A Yes.

Q At the time you signed it, did you read it?

A I only read my name. I know because it is my name.

Q At the time you signed it, did you know in any way what was in the paper before you signed it?

A Very little only.

COLONEL CHASE: Under the circumstances the ruling of the Law Member is that this document is not admissible. I suggest you proceed with your direct questioning and try to bring out, if you can, the things which the witness obviously is able to answer. It appears to be fruitless to waste too much time to get an answer which he does not understand.

MR. BLACK: I will ask one more question.

REDIRECT EXAMINATION .

Q Did you at any time tell me or anyone else that Domingo Mananquel was taken out of the Kempei Tai cell on a truck and taken away?

A No, because when he died his body was still there in the cell and has not been taken to the truck.

Q Was his body ever taken out on the truck?

A No.

Q Did his body remain in the cell during the four days that you were there?

A While I was there the body was still there.

Q And when you left?

A When I left it was still there.

COLONEL CHASE: I am going to interrupt to ask some questions here.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q How long after the time when you apparently saw Domingo Mananquel die did you remain in the cell?

A On the fourth day when we were released. That was the only time I saw his dead body in our cell.

Q How long before you were released was he brought back to the cell and die, if he died?

A When we were still in the jail at 4:30 in the afternoon, we were already released but his body was still there. I do not know where he was loaded.

Q How long after you think he died were you taken from the cell?

A I could not estimate because we were also in jail and our cell is quite large.

Q Was it as much as a whole day and night?

A I do not know.

COLONEL CHASE: Have you anything further, Mr. Black?

MR. BLACK: I have a few more questions.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

FURTHER DIRECT EXAMINATION

BY MR. BLACK:

Q Are you married?

A No.

Q Did you receive a telegram from home today?

A Yes.

Q What was the nature of that telegram?

A I do not know how to read, so I asked my companions to read it.

Q What did they tell you was in that telegram?

A They told me that my wife is seriously ill -- my brother.

COLONEL CHASE: Suppose you repeat the question and get the whole answer back as a single answer.

MR. BLACK: I withdraw that question.

Q Do you have that telegram?

A No.

Q Who has that telegram?

A It is there in our camp.

Q Are you now staying in Manila?

A Yes.

Q When did you get that telegram, this morning?

A The other afternoon.

Q Was that yesterday?

A Yes.

Q What did they tell you was in that telegram?

A I have some of my friends read it. It was stated there by my younger sister that I should come home immediately because your brother is seriously ill.

Q What is your brother's name?

A He is not baptized yet. He is very small.

Q How old is he?

A Very small, just recently born.

Q Are you upset because of that telegram?

A I am not feeling well right now.

MR. BLACK: If it please the Commission, I would like to excuse this witness at this time and, with the permission of the Commission, recall him tomorrow morning.

COLONEL CHASE: He apparently is overwrought. Is he in a position to testify with regard to Specification No. 8?

MR. BLACK: I have reason to believe that he is in a position to testify with regard to Specification No. 8. This information disclosed from the witness came to my attention during this recess.

COLONEL CHASE: The best thing that could happen would be for the Commission to release him at the earliest possible date, in order to permit him to return to his home. Just as soon as we get him composed enough to get what testimony we need from him, I would be in favor of releasing

him and making it possible for him to return home as soon as possible.

MR. BLACK: All right, I will try to get into Specification No. 8 simply and expeditiously.

COLONEL CHASE: Let me ask him a few questions through the interpreter.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q The Commission understands and sympathizes with you in your trouble. We would like to release you to return to your home as soon as possible.

A I am very glad if I would be released because I do not know what is happening in my family.

Q You are supposed, however, to have some knowledge concerning which you can testify and which you have not yet given us. Do you suppose that if the Commission gave you a few minutes, ten to fifteen minutes, to go outside and talk to other witnesses that you could get yourself composed enough so that you could come on the stand and finish your testimony this afternoon?

A I would like to be finished now so that I will not have any worry.

Q You have been on the stand here. Now suppose you go out and walk around for five minutes and then we will go ahead again and see if we cannot finish you this afternoon so that we can release you.

A I would like it right now.

Q You would like to go ahead right now. Is that what you mean?

A I would like now to be finished.

Q We are required to get whatever else you may know about this case, and if you could give it to us this afternoon then we could leave you go and could tell the office that you could go to your home.

A Yes.

Q Do you want to try to go ahead right now or do you want to rest and walk around for a few minutes?

A I would like to go ahead right now.

Q Very well, Mr. Black, see what you can do with him.

FURTHER DIRECT EXAMINATION (continued)

BY MR. BLACK:

Q In addition to yourself and Domingo Mananquel, were Magbanua and Allic and Rafa in the cell with you?

A Yes.

Q Did you see anything happen to Magbanua?

A Yes.

Q Tell the Commission what you know happened to Magbanua.

A We were already in the cell. After three days he was investigated. He was investigated in another room that nobody could see. We have heard downstairs the noise, the strong voice saying, "What happened with you, you do not pity us." After twenty minutes he returned to our cell. We saw that there were bruises, blue bruises, on his body on both sides. No more. That is all.

Q Did you talk to Magbanua at any time when he returned from the other room?

A No, we have not talked with him, because if you will talk with him the Japanese guards will slap you.

Q Did Magbanua appear to be suffering or in pain?
A Yes.
Q How do you know?
A Because his face was blackened and his arms were swollen.
Q When you were released did Magbanua remain in prison?
A Yes, he was still there.
Q What, if anything, happened to Anacleto Allie while he and you were in the prison?
A When we were still there in jail the following day they took Anacleto Allie upstairs for investigation. We heard the shout twice, "I am a civilian and why are you torturing me." After he has been beaten by the Japanese he was brought back again to the inside of the cell where we were kept.
Q How do you know that Anacleto Allie was beaten?
A Why should I not know it when we were both living in the same cell, and I saw both of his arms fractured, both arms.
Q Do you mean his arms were broken?
A Both his arms were swollen.
Q Did they have bruises or other marks on them?
A His hands are reddish and big and also his face.

Q What do you mean "also his face"?

A Blackened.

Q Was it in any way disfigured?

A Yes.

Q In what way?

A There are small wounds on his face, and his face was swollen.

Q Did you, Rafa, Allic, Magbanua, and Mananquel stay in the same cell?

A Yes.

Q During the time you were imprisoned?

A Yes.

Q Do you know why you and these people you just mentioned were arrested and imprisoned?

A Yes.

Q Why?

A I do not know what their faults are.

Q What were you accused of?

A I was suspected as a member of the army.

Q As a member of what army?

A I am not a member of an army, but they suspected me to be a member of an army.

Q Do you mean they suspected you of having been a member of the guerrillas or USAFFE?

A Yes.

Q Were you a member of the guerrillas or USAFFE?

A No.

Q Did you have anything to do with the guerrillas and USAFFE?

A None.

Q Do you know why Mananquel, Magbanua, and Allic were beaten?

A Yes, I know because we were in one cell.

Q Do you know whether Allic, Magbanua, Mananquel, and Rafa were members of the guerrillas or USAFFE?

A They are not members, but their work was catching fish with hook and line.

Q Do you mean they were fishermen?

A Yes.

MR. BLACK: No questions.

CROSS-EXAMINATION

BY MR. SIMON:

Q Felipe Yap, weren't you apprehended together with many of your townspeople at Talisay on 19 April 1944?

A Yes.

Q How many Japanese troops came to Talisay that day and captured you and your friends?

A Plenty.

Q Were there five hundred Japanese troops?

A I could not tell, but there were plenty.

Q Do you have an idea of how many there were?

A I could not have any idea, but there are plenty.

Q Did they come up there in trucks?

A Yes.

Q How many trucks were there?

A Plenty.

Q More than you could count?

A No.

Q How many trucks were there?

A Many trucks, and they were scattered and I could not count them.

Q Did you ever hear of Colonel Yamaguchi?

A Yes, I heard.

Q Wasn't Colonel Yamaguchi there in Talisay on 19 April 1944?

A Yes, he was there, but I have not seen his face and only heard of his name.

Q Weren't a lot of the battalion officers with him in Talisay that day?

MR. BLACK: I object to that question. How could he know?

MR. SIMON: I don't know, but he might.

MR. BLACK: I will withdraw the objection.

Let him answer.

A Yes, he was accompanied by them.

Q Did the men and soldiers that were there with Colonel Yamaguchi wear any insignia of any kind?

A Some have insignia, and others do not have.

Q Did you notice any with purple stripes on their collars?

A Yes, I have seen.

Q Did you see some wearing insignia like the Captain has down there on the end (indicating) crossed rifles or

crossed sabers?

A None.

Q Did any of these soldiers that were in Talisay that day have arm bands of any kind?

A Yes, I have seen Japanese.

Q In Talisay, did you see Japanese with arm bands?

A Yes, I have seen them with the letters "M.P." and above are letters in Japanese.

Q Do you mean he had a shoulder patch like the Colonel is wearing (indicating)?

A No.

Q Was it a shoulder patch but bearing Japanese letters on it?

MR. BLACK: If it please the Commission, the witness testified that there was no shoulder patch.

COLONEL CHASE: I think he said it was an arm band with "M.P." and Japanese letters above.

Q Will you describe this arm band that you mentioned before?

A The name "M.P." is in blue. The background is white.

Q Now, isn't it the type of band that the soldier has over there, blue background with white lettering?

A I could not tell, but I saw that they have insignia.

Q Will you look at that M.P. right behind you and see if that is the type of insignia that they wore?

A Not that type.

Q Was it the same color, though?

A The band is white.

Q And the lettering was white?

A Blue.

Q Now, was the lettering in English or Japanese?

A The name there is "M.P." and a Japanese character on the top.

Q How big, how wide was this arm band?

A I do not know.

Q Do you have an idea of how wide it was?

A How could I have an idea because if you come near to a Japanese, they will slap you.

Q How close did you come to these men that were wearing these arm bands?

A From here until there (indicating.)

MR. SIMON: Let the record indicate the witness gestured a distance of approximately ten feet.

Q Were your eyes so poor at that time that you could not recognize and see things clearly at the distance?

A The victims I do still recognize because it is clear.

Q Did you recognize the faces of any of the men that were in Talisay, the Japanese that were in Talisay?

A I could not recognize, but they are Japanese.

Q Would you be able to recognize the face of the Japanese that commanded all those troops in Talisay that day?

A I could not recognize.

Q Were all the townspeople rounded up and put in the plaza at Talisay?

A Not all.

Q How many people were rounded up that day in all?

A Plenty.

Q Do you know Evangelista Algarnoe?

A No.

Q Do you know Anacleto Allio?

A Yes.

Q Do you know Igmidio Apohen?

A No.

Q Do you know Wenceslao Bironde?

A No.

Q Do you know Bienvenido Buenaventura?

A No.

Q Do you know Julian Buenaventura?

A No.

Q Do you know Jovita Casiple?

A No.

Q Do you know Melchor Celia?

A No.

Q Pablo Cervantes?

A I do not know.

Q Manuel Chua?

A I do not know.

COLONEL CHASE: What is the object of this particular line of questioning?

MR. SIMON: I have a specification of which I was defense counsel and which all of these people were apprehended in Talisay in 1944, all picked up in one group, and included among them are the names I have mentioned, including Allio and I am now reaching Estanislao Magbanua.

Q Do you know Estanislao Magbanua?

A Yes.

Q Do you know Domingo Mananquel?

A Yes, sir.

Q Do you know Paulino Mesina?

A No.

Q Rodolfo Robles?

A No.

Q Felix Sapitola?

A No.

Q Rafael Toledo?

A No.

Q Felipe Yap?

A Yes.

Q Is that you, Felipe Yap?

A Yes.

Q Do you remember whether any of these people whose names I have mentioned were arrested with you that day at Talisay, 19 April 1944?

MR. BLACK: If it please the Commission, just a moment, I would like to give the defense certainly as much latitude as the prosecution received with this witness, but this witness was given a list of names and he said he knew some of them, the others, he did not know. Supposing the defense counsel confine the names--

COLONEL CHASE: Obviously, he didn't know the people.

MR. BLACK: Unless there were others brought there and arrested.

MR. SIMON: I will withdraw the question.

Q How long have you lived in Talisay?

A For a long time.

Q Do you know all the people in that town?

A I do not know the others because the rest are living in the army.

Q How many people were there in Talisay in April, 1944?

A Plenty.

Q Were there more than a thousand?

A I am not counting by thousands, but there were plenty.

Q How many of the Talisay townspeople were rounded up on 19 April, 1944, by the Japanese?

A Plenty.

Q How many?

A I could not count.

Q Can you give me the names of any others, other than the four that you have mentioned?

A I could not tell. I only know the four.

Q You knew none others in the entire group raided?

A I do not know the others. All that I know are those that were beside me.

Q Did the Japanese that arrested you have an arm band on?

A I have not seen. I do not know.

MR. BLACK: Excuse me, just a moment, Mr. Simon.

I do not like to interrupt, but supposing you ask him if he knows who arrested him instead of going through all of that?

MR. SIMON: I don't believe he does know.

MR. BLACK: If he says he doesn't know, that may eliminate that line of questioning.

MR. SIMON: Perhaps I may explain. This line of questioning may seem immaterial to the point in issue. As I stated before, I recently completed a case and this raid of the Kempei Tai was included in it. This raid was at Talisay and that is the reason for counsel's familiarity and this witness seems to have been one of the victims tortured at that time. I will proceed with my questioning and get out of Talisay.

Q Were you in Bacolod in 1944?

A In Talisay.

Q Were you in Bacolod in 1944?

A Yes.

Q How many times?

A I could not count.

Q Are you familiar with the buildings in Bacolod?

A Yes.

Q Did you know where the house of Hilado was in Bacolod?

A How do I know when there are plenty of houses?

Q Do you know where the high school was at Bacolod?

A No.

Q Did you know where the Private Hospital was at Bacolod?

A Yes, because it was there where I was imprisoned.

Q How did you know the place where you were imprisoned was a hospital?

A Why should I not know it when there is a sign, "Private Hospital"?

Q What does that sign say, exactly, if you remember?

A The name is in white, "Private Hospital."

Q Is that written in English?

A Yes.

Q Did they have Japanese characters before the words, "Private Hospital"?

A There are Japanese characters also.

Q How big was this sign that you saw at the hospital?

A I cannot tell but I have only seen.

Q Didn't the sign say, "Bacolod Private Hospital" and not just "Private Hospital"?

A "Bacolod Private Hospital."

Q Didn't it have under it in small letters the proprietor's, or owner's name?

A I do not know. I have not seen.

Q Didn't you see a big red cross in front there to show it was a hospital?

A No.

Q Are you sure?

A Yes.

Q How many stories was that building in which you say the sign was located?

A How could you look at it because as soon as you get in there the Japanese will be angry at you?

Q Didn't the Japanese stop and show you the sign on the building before you went in?

A No, but while we were talking we were able to look at it.

Q Did you walk from Talisa back to Bacolod?

A No, we were riding in the truck.

Q When you got off the truck, did all the Japanese soldiers get off the truck with you?

A Not all, some were left in the truck and the rest came with us.

Q How many soldiers came with yourself and your companions?

A Plenty.

Q Was there about one hundred?

A I could not tell, but there were plenty.

Q Could you tell if there were more than one hundred?

A I could not say.

Q Give me a figure, if you can, just more or less?

A I could not tell.

Q Was there more than one Japanese that got off?

A More.

Q How many of your companions got off with you at that place where you got off the truck?

A Many.

Q All of them?

A Yes.

Q Didn't you get off at the Bacolod High School and not the Private Hospital?

A We came down right there at the Bacolod Private Hospital.

Q What makes you so sure?

A Because the Japanese guarding there has a name, "M.P."

Q Didn't you also tell by the sign up in front of the building?

A I saw that the guard has the name, "M.P." and we looked up and saw the name, "Bacolod Private Hospital."

Q Where was that sign, "Bacolod Private Hospital," located on the building?

A In front.

Q Was it on the lawn in front of the building?

A No, it is up.

Q How high up?

A I could not tell, but it is high.

Q Was this on the fourth floor of the hospital?

A I could not tell, but there is a name.

Q Was it a brick building or a wooden building?

A A big house.

Q Was it on a corner or in the center of a block?

A A little bit away from the road.

Q Was it on the corner facing two streets or was it in the middle of the block?

A It is a long road.

Q On what street?

A I could not tell what street.

Q Did you notice whether lots of soldiers lived in and around that building in which you were confined?

A There are plenty living there.

Q About how many would you say were living in that area?

A I could not estimate, because I do not count anyway.

Q Now, to go from the main road to reach the building in which you were confined, did you drive up a circular driveway?

A Drive the circular way.

Q Now, how far back from the road was this building to which you were taken?

A I could not estimate.

Q Did you notice any buildings near the one to which you were taken?

A On this other side there is a corral, a fence.

Q Did you notice a messhall in the rear of the building in which you were confined?

A How could you notice, inasmuch as we could not go out because we were prisoners?

Q Did you know where the garage of the transit company is located in Bacolod?

A I do not know.

Q How far is Talisay from Bacolod?

A About seven kilometers.

Q Now, in this building to which you were taken, how many cells are there?

A Plenty.

Q Were there ten cells?

A I could not count because downstairs and upstairs they have cells.

Q Now, how many prisoners were taken there, placed in that building with you?

A I have many companions.

Q And how many were put in each cell, do you know?

A In our cell, we were sixteen.

Q And how many in the cell next to yours?

A I could not tell, because there is a partition and I could not see.

Q Are there many cells upstairs in that same building?

A Yes, there are cells also upstairs.

Q In fact, there are cells all over the building in which you were kept, is that correct?

A No, not all are with cells.

Q Did Colonel Yamaguchi come and visit you at your cell?

A I don't know. I do not know him.

Q Did you ever hear of Akira Takeshita?

A I have heard of his name but I have not seen his face.

Q Didn't you tell a War Crimes investigator that Akira Takeshita tortured you?

A No.

Q Didn't a War Crimes investigator see you at Talisay and take a statement from you?

A He took my declaration, but I do not know this Japanese, Takeshita.

Q But didn't you tell the investigator that it was Takeshita that beat and tortured you on 19 April 1944?

A No.

Q Now on what floor of the building was the cell in which you were confined?

A Downstairs.

Q And do you know the names of some of the people that were confined in the cell with you?

A Yes.

Q Will you give me their names?

A Domingo Mananquel, Nicolas Rafa, Estanislao Magbanua, Anacleto Allie, and I do not know the rest as to who they are.

Q Therefore, you cannot remember some of the rest?

A I could not remember.

Q Weren't the rest of these people from your home town, Talisay?

A Some are from Talisay, and some are from the barrios.

Q And the trucks which brought the soldiers and yourself and your companions from Talisay, did they remain parked near this building where you were left?

A No.

Q At the entrance to the building to which you were taken in April, is there a round area planted with grass?

A That house, it is true that there are grasses.

Q You say you go up a circular driveway to get up to this building, is that true?

A Yes, because there is a curve and then the street.

Q Now, in that curve isn't there an area which is planted with grass and shrubs and trees?

A On that curve there is a house standing there.

Q You stated that you came up a circular driveway?

MR. BLACK: He didn't state that. The defense counsel has stated that.

MR. SIMON: He said, "yes" when I asked him the question.

MR. BLACK: That doesn't necessarily mean that that is what he stated.

MR. SIMON: I believe the record will speak for itself on that.

MR. BLACK: Certainly the record will speak for that, but the questions have always been "And there is circular driveway." He hasn't said anything like that.

You have been saying those things, and he has said, "yes."

Q Will you describe the roadway by which you go from the main road to the house in which you were kept?

A It could be passed by an auto also.

Q How far in do you have to go to reach the house from the main roadway?

A Probably from here to those grasses over there (indicating).

Q To the edge of the curve?

A This grass here at the edge.

Q Will you walk down there and point out what you mean?

(Witness does as requested.)

MR. SIMON: Let the record indicate the witness gestured indicating approximately sixty feet.

MR. BLACK: I don't think it is that many feet.

MR. SIMON: Fifty feet.

Q Now, were all these sixteen people kept in the same cell with you during those four days that you were kept there?

A Yes.

MR. SIMON: Sir, I don't believe we will finish with this witness today.

COLONEL CHASE: Do you believe it is going to take more time than you originally asked for?

MR. SIMON: Yes, sir.

COLONEL CHASE: Under the circumstances we will resume with him tomorrow morning.

The Commission will adjourn until 0830 tomorrow morning, 8 November 1946.

(The Commission adjourned at 1515 hours, to reconvene at 0830 hours, 8 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

Shuji KAWAMORI

PUBLIC TRIAL

VOLUME V

PAGES 347 TO 431, INCL.

DATE: 8 November 1946

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MANILA, P. I.

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CERTIFICATION

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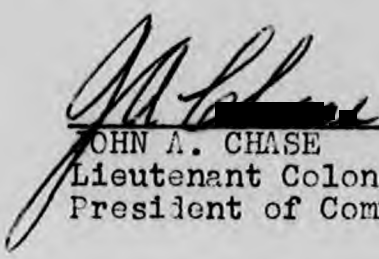
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.


JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

VS

Shuji KAWAMORI

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
8 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP,
President and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WEEBINGER, TC
CAPTAIN HARLYN W. LACEY, CAV (QM)

APPEARANCES:

FOR THE PROSECUTION:

MR. ABRAHA BLACK, CB, Chief Prosecutor
SECOND LIFUTENANT DEMETRIO R. ICO, INF (PA)
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, CS, Chief Defense Counsel
MR. OTTO SCHULTZ, C., Assistant Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTEO DIANALA JO)
ROGELIO CATANJAL } ILONGO (VISAYAN)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 8 November 1946, at the High Commissioner's Residence, Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The record will show that when the Commission reconvened all the members of the Commission, the prosecution, defense counsel, the accused and his personal interpreter were present.

The witness is reminded that he is still under oath.

FELIPE YAP

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreter Dianala Jo:

CROSS-EXAMINATION (CONT'D)

BY MR. SIMON:

Q Do you recall the road over which you traveled to reach this building to which you were taken at Bacolod?

A I could not recall because there are many roads.

Q Do you recall whether the road in front of the building in which you were confined was cobblestone or paved macadamized construction?

A Covered with gravel.

Q Do you recall whether the building to which you were taken in April 1944 was near the provincial road?

A I could not remember.

Q Are you able to read an aerial photograph of the City of Bacolod?

A I could not tell.

MR. SIMON: Defense will attempt to orient the witness on a map, an aerial photograph prepared by the Allied Geographical Section, Southwest Pacific Area, Handbook No. 52, Negros Island, dated 27 December 1944.

COLONEL CHASE: To assist the Commission in following this line of examination more accurately if there is anyone here who knows the exact layout of things in Bacolod, I suggest you excuse this witness a minute and call someone who can identify locations on this correctly and to recall the witness now on the stand, later to see whether or not his knowledge of the things is accurate or not.

MR. BLACK: I have no objection to this line of procedure but I would like to know what Mr. Simon hopes to establish from this witness along that line.

MR. SIMON: To have him point out locations of buildings, streets, and areas of Japanese units at Bacolod in April 1944.

MR. BLACK: You can establish from the witness if he knows and then you may use any witness you like to disprove it.

COLONEL CHASE: The Commission can follow it much more intelligently if we first get oriented on the map.

MR. BLACK: I have no objection to that.

MR. SIMON: Defense would like to call Mr. Pascual Cazcarro. This witness will be called for the limited purpose of orienting the Commission on the aerial photo and locations in the city of Bacolod. The defense intends to use this witness as a defense witness later in its case.

COLONEL CHASE: Mr. Yap will be ~~excused~~rily temporarily for the purpose of permitting the Commission to become familiar with this aerial photograph before he testifies concerning it.

(Witness temporarily excused.)

PASCUAL CAZCARRO

a witness for the defense, was first duly sworn, and testified as follows:

MR. BLACK: What is your full name?

THE WITNESS: Pascual Cazcarro.

MR. BLACK: Will you spell that for the Commission?

THE WITNESS: P-a-s-c-u-a-l C-a-z-c-a-r-r-o.

DIRECT EXAMINATION

BY MR. SIMON:

Q How long have you been a resident of Bacolod?

A Since 1920.

Q During the Japanese occupation of Negros Island where did you reside?

A Bacolod City.

Q What was your job in 1944?

A In 1944 I was out of a job.

Q During the Japanese occupation what type of employment did you have?

A Before the Japanese came to Negros I volunteered my services as Fire Brigade Chief. When the Japanese landed, they landed on May 20, Mr. Alonso was the Fire Brigade Chief and we both resigned our jobs but the Mayor, Yulo, appointed me Chief of the Fire Department of Bacolod City in place of Mr. Alonso.

Q Are you able to read an aerial photo of the City of Bacolod?

A Yes, sir.

Q Showing you the aerial photo taken 5 December 1944 of the Bacolod area, a portion of a terrain handbook, Number 52, of Negros Island, prepared by the Allied Geographical Section, Southwest Pacific Area, will you point out to the Commission the location of the Bacolod High School?

A (Indicating)

MR. SIMON: May the record show the witness indicated on this aerial photo the location of the Bacolod High School.

Q Was there a Japanese Army unit stationed at that high school in April of 1944?

A Yes, sir, they had some adjacent buildings to the high school.

Q Do you know the designation of the units that were stationed there in 1944?

A It was really very hard to tell. They detailed themselves but sometimes the unit would stay for a week and disappear and come back again and disappear. I have been a victim of this -- I was detained. They came around to my house which was right in front, borrowed furniture and wouldn't come back any more.

Q Who was the Commander of the garrison?

A As far as I can recollect it was Colonel Yamaguchi.

Q Was a Kempei Tai unit stationed in that area?

A No, sir.

Q Do you know where the Kempei Tai was located in Bacolod in 1944?

A Yes, sir.

Q Will you indicate that on the map?

A (Indicating)

MR. SIMON: Let the record indicate that the witness pointed to the Commission the location of the private hospital and stated that it was located on Smith Street, it being a concrete building.

Q Will you indicate the name of the street, the intersection that is north of the Kempei Tai building?

A This is Luzurriaga Street (indicating).

Q What street is located South of the Kempei Tai Headquarters?

A San Sebastian Street.

Q How many Japanese were stationed at the Kempei Tai Headquarters in April of 1944?

A I was detained in July 1944 and as far as I could count there were about ~~15~~ more or less soldiers guarding us -- about 15 of them because I found out every day they used to detail 3 different Japanese soldiers. They would stay 24 hours and it was usually the same 3. There were more corporals and sergeants. I think there were more than 30 soldiers.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q Do you mean there were 3 assigned to you daily with the fire department?

A You see I have been a victim myself, detained for about 30 days. We were prisoners there and we could see the sentries being changed and the same 3 would come back.

There were 15 on duty, sergeants and corporals.

Q How many would you estimate to be the total number?

A Thirty to thirty-five.

DIRECT EXAMINATION (CONT'D)

BY MR. SIMON:

Q How many soldiers were there stationed at the high school in April 1944?

A I couldn't estimate.

Q How many? Do you have an idea?

A In 1944 there were very few left there.

Q As early as April of 1944 do you know how many were there?

A I could not recollect because they had a different entrance than my house. The main entrance is here (indicating). This was their main building (indicating). This was their storehouse (indicating). They had buildings all scattered around. They had shelters and buildings around there (indicating) but you couldn't find out how many soldiers were there.

Q Did the members of that unit live on the high school grounds?

A Yes.

Q Where did the members of the Kempei Tai live?

A They lived here (indicating).

Q How many buildings are there on the grounds where the private hospital is located?

A The only building is the big concrete building.

Q One concrete building?

A Yes, sir, next to it is a barbed wire fence where in 1943 and part of 1944 Lieutenant Kawamori was living. Later on Lieutenant Unai stayed in the house. That house belonged to Doctor Jozson.

EXAMINATION BY THE COMMISSION (CONT'D)

BY COLONEL CHASE:

Q Was the number stationed at the high school a greater number or a smaller number than the number stationed at the Kempei Tai on Smith Street?

A More soldiers.

Q Could you give us an approximate estimate of the average strength there?

A Really it was hard to approximate because my house was from here (indicating) and the high school was about where the Army and Navy Club is. That is why you couldn't say.

Q Was it 100 or more?

A More than 100.

DIRECT EXAMINATION (CONT'D)

BY MR. SIMON:

Q Are you familiar with the location of Hilado's home?

A Which of the Hilados? There are very many Hilados. If you mention a name I can tell you. There is Emilio, there is Jose, and there is Carlos.

Q Do you know a Sergeant Takeshita?

A Yes, sir.

Q Do you know where his residence was in 1944?

A He was living on San Juan Street in Mr. Gonzaga's house.

Q Will you indicate that on this photo?

A (Indicating).

Q What street runs in front of that home?

A Where Takeshita lived?

Q Yes.

A San Juan.

Q Was Sergeant Takeshita's home located on San Juan?

A Yes.

Q Were there also soldiers stationed at the home of Sergeant Takeshita?

A No, sir, in front of his house the aviation personnel stayed at what is today called Sea Breeze Hotel.

EXAMINATION BY THE COMMISSION (CONT'D)

BY COLONEL CHASE:

Q That was nearby to the Gonzaga's house where Takeshita stayed?

A Gonzaga; the two buildings are facing each other. Sea Breeze Hotel is farther North.

DIRECT EXAMINATION (CONT'D)

BY MR. SIMON:

Q Do you know with which unit Sergeant Takeshita was connected?

A I think he was at the Yamaguchi Butai.

Q What type of clothing did he wear generally?

A He used to wear civilian clothing. I have never seen him in uniform until about December 1944 when we found out that he was only a corporal, I think. First we thought he was a big officer because he carried a sword, a long sword, in a parade.

Q Do you know what his job was in the Yamaguchi battalion?

A I think he was the G-2 man of the battalion.

Q What is the construction of the road that runs in front of the high school? What kind of road?

A Asphalt road.

Q What type of road runs at the entrance to the high school as you leave the provincial high school?

A Concrete, single alley, one-way traffic.

Q What type of road is there that runs in front of San Juan, in front of Takeshita's house?

A Cobblestone.

Q What type of construction is Luzurriaga Street?

A Part of it is asphalt and part cobblestone.

Q At the intersection of Luzurriaga and Smith what type of construction is Luzurriaga?

A Luzurriaga Street crosses Smith Street.

Q Where it crosses Smith.

A Gravel and cobblestone.

MR. BLACK: I didn't get the whole answer.

A (Continuing) It is not really -- I think it is the same road as this (indicating). The road is made of big rocks and covered up with gravel.

Q Is the ~~surface~~ of the road similar to that located in front of this court room?

A Not asphalt.

MR. BLACK: I move that "not asphalt" be stricken. It is hardly a description.

MR. SIMON: I will withdraw the question and I will join in striking the answer.

MR. BLACK: In the first place the witness can't see that far.

Q Will you observe for yourself and see if the parking lot out there is of the same construction that Smith Street is?

COLONEL CHASE: (To witness) You may go out there and examine it if you wish.

(The witness left the witness stand to follow request.)

COLONEL CHASE: The witness has examined the surface of the road in front of the courtroom and I will ask him now to state for the record the similarity to the road in Bacolod at Smith Street and Luzurriaga.

THE WITNESS: This street before the war was paved with asphalt but then because of long usage and not maintained the asphalt is all gone and the road bed is bare.. The rocks are protruding.

EXAMINATION BY THE COMMISSION (CONT'D)

BY COLONEL CHASE:

Q Is the road similar to that in front of the courtroom?

A It is the same.

MR. SIMON: Defense has no further questions of this witness.

COLONEL CHASE: Any questions by the prosecution?

DIRECT EXAMINATION (continued)

BY MR. SIMON:

Q Is there any markings on the High School to indicate that it is a high school?

A Yes, sir, it has concrete letters saying, "Provincial High School, Occidental Negros."

BY COLONEL CHASE:

Q Where are those letters, on the ground or in the yard?

A No, sir, in the facade of the building.

BY MR. SIMON:

Q Is there any indication on the Private Hospital to indicate the type of building?

A Yes, sir, the letters "Bacolod Private Hospital" in concrete, - big letters.

Q How big are those letters?

A Oh, probably I would say twenty inches tall, and about ten inches wide.

Q Does that sign stretch across the entire front of the building?

A It is set in across the back of the building because the building has two sides bulging, and the center is a little in. That is where the sign is -- up in the roof.

Q Could you sketch for us the shape or floor plan of the Private Hospital to show what type of construction it is?

(Witness does as requested.)

MR. SIMON: The record will show that the witness is now making a sketch of the Bacolod Private Hospital and grounds.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q How many stories is the Bacolod Private Hospital?

A It is one flat and the upper story.

Q That is two stories?

A Yes, sir.

Q How many stories is the Bacolod High School?

A It is only one story. You go up five or six steps. That is the floor of the High School.

DIRECT EXAMINATION (continued)

BY MR. SIMON:

Q Wasn't the High School used as cells for prisoners during the Japanese occupation?

A I have never known of it because the floor is low. It is about three or four feet. It may be possible to put people there.

MR. SIMON: Let the record indicate that the witness has drawn a sketch of the Bacolod Private Hospital indicating the location on Smith Street, a moon-shaped driveway leading to and going from the building toward Smith Street. The building has both ends opening on this Smith Street. The building is a "U" shaped form with the closed side of the "U" toward Smith Street. It contains a central entrance.

COLONEL CHASE: The entrance is set back from the front line of the building, and the witness indicated that on the front of this set back portion, in concrete letters, were the words, "Bacolod Private Hospital," in the foremost portion.

Q Was there any Japanese letterings set into the building above the sign "Bacolod Private Hospital"?

A No.

MR. SIMON: The witness has also indicated that there were two side entrances to the building. He has also indicated that at the front entrance there is a marquee under which vehicles can be driven and unloaded sheltered from the rain.

Q Are you familiar with the construction of that building, the interior area, as it was in 1944?

A Yes, sir.

Q In April of 1944?

A Well, I have known that building while it was a private hospital. And I have known it when I was back there as a prisoner.

Q How many cells were there?

A There are only two cells for prisoners.

Q How large were each of those cells?

A I think the one where I was is about fourteen feet by about ten feet, - ten to twelve feet.

Q What type of construction was the walls of that cell in which you were confined?

A The outside walls are concrete. The partition between the rooms is lumber.

Q What type of construction was the door leading to the cell?

A It was lumber, but we were not lead through the door. The door was nailed, and they broke the lower portion of the wall and the prisoners had to crawl through a hole to get inside the cell.

Q Where was your cell in relation to the other cells in the building?

A My side was on the western part of the building. The building itself is pointing north. You come around an alley

here (indicating); this is the dining room (indicating); this is the toilet and bathroom (indicating); then comes the first cell, then the second cell.

BY COLONEL CHASE:

Q That is on the left hand side of the building as you face it from the street, in the courtyard and center of the "U".

A Yes, sir, where I marked it with an "X". That is the cell where I was taken.

BY MR. SIMON:

Q How were you put in that cell?

A We had to crawl under the wall. It was a small door about thirty inches above the floor.

Q Did you enter from the outside of the building?

A No, from the inside. There is an alley here (indicating) at the back of the wall. It is an alley four or five feet wide.

Q Was there any structure in the open end of the "U" in April of 1944?

A No, sir, in August of 1944, when I was set free, Lieutenant Hirikawa was building an annex kitchen on the end of the building.

BY COLONEL CHASE:

Q In the open end of the portion within the "U"?

A Yes, sir.

BY MR. SIMON:

Q But prior to August 1944 there was no building in that open end of that "U"?

A There was no permanent building. They had a temporary thing with bamboo poles tied around it. Then they built a permanent one.

BY COLONEL CHASE:

Q But there was a temporary structure?

A Yes, sir.

BY MR. SIMON:

Q Do you know the type of construction of the other cell?

A The same.

Q Was there any window in your cell?

A Yes, sir, barred windows.

Q How many windows were there?

A In my cell, two windows. In the next, one.

Q In which direction of the wall was the window located?

A It was facing south.

BY COLONEL CHASE:

Q Was the outside wall facing on the inner court?

A Yes, sir.

BY MR. SIMON:

Q From those windows outside from the ground what was the distance between the floor and the casings of the windows?

A Probably just about six feet.

Q Six feet?

A Yes, sir.

Q So that a person standing in the cell could not look out the window without standing on something?

A Just a minute, I thought you were asking this question from the ground floor. From the floor of the cell there was a regular casing for the window, about thirty six inches high more or less.

BY COLONEL CHASE:

Q From the floor?

A Yes.

BY MR. SIMON:

Q How high was the window, do you know?

A Probably over five feet high.

Q Did it extend all the way to the ceiling or approximately that far?

A Not all the way, just two to three feet before the ceiling.

Q How big was this entrance to the cell?

A Well, it was about thirty inches square.

Q A square hole of about thirty inches?

A Yes, sir.

Q Was that through a concrete wall?

A No, a wooden wall.

Q Was there anything to close off the thirty inches?

A Yes, sir, it had a door with hinges.

Q A swinging door or a sliding door?

A Swinging inside. The door swung inside. It had to have a clasp. They didn't bolt it but had a sort of steel bar twisted in such a way that just rounded up like we have on the cell.

BY COLONEL CHASE:

Q Was there a sentry at these doors?

A Yes, sir, the Japanese usually had a sentry at the times we went out.

BY MR. SIMON:

Q How big was this peep hole?

A It was quite big. It was about fourteen to fifteen inches and all the width of the door below the wall.

Q Now, could a person standing in the cell look up and down the corridor in front of the cell?

A Well, you could just do that. If you put your face close to the iron bars you could see the hall across, the other alley across and a little part to the right, very little to the left.

Q But could a person standing in one cell see what was going on in the next cell?

A No, sir, there was a little hole the size a little larger than a cigarette. I do not know who bored it. It was very much used as you could see the paint already taken away by persons talking from one cell through the wall with their lips. That was the only hole.

Q Are you familiar with the investigating rooms?

A Yes, sir.

Q How many rooms were there?

A Two.

Q How long were the rooms?

A The first room which is right by the stairs coming down on this alley, there is a room. That is what used to be the delivery at the time it was a hospital. Then farther ahead at the end of the "U" here (indicating) there is a big room tiled up to about six feet from the floor, with white tile floors and walls which used to be the surgery room. These were the rooms used by the soldiers or investigators to mistreat the prisoners.

MR. SIMON: The defense has no further questions, sir.

COLONEL CHASE: Questions by the prosecution?

MR. BLACK: I would like to ask this witness a few questions at this time.

CROSS-EXAMINATION

BY MR. BLACK:

Q You testified that you were imprisoned at the Kempei Tai?

A Yes, sir.

Q When were you arrested?

A I was arrested on July 20, 1944, at 12 P.M.

Q And where were you put or placed?

A I was taken to this Private Hospital where the Kempei Tai Headquarters were.

Q Do you know how long the Private Hospital was used as the Kempei Tai Headquarters?

A If I am not mistaken it was around the month of August 1943 when they transferred there. I am not very sure.

Q But they were there sometime in 1943 and 1944?

A Yes, they were.

Q Do you know the De La Pena house?

A Yes, sir.

Q Was that also used as a Kempei Tai Headquarters?

A Yes, sir, on their landing in Bacolod.

BY COLONEL CHASE:

Q At the time the Japanese landed in Bacolod?

A Yes, sir, on May 20th they used that building. That building used to be the Filipino Constabulary.

COLONEL CHASE: This witness was called originally at the request of the Commission to orientate the Commission. If the defense is going to recall this witness in order to keep this procedure as orderly as possible, he should be asked only things directly connected with that.

MR. BLACK: He has already stated certain things which I would like to clear up. I don't want to cross-examine this witness. I just want to clear up a few points.

Q Were you the only one placed in the cell of the hospital or were there others with you?

COLONEL CHASE: Specify the time when -- do you mean when he was arrested?

Q Yes, at the time he was arrested.

A The first night they put me in it was about eleven o'clock. I was dizzy and I couldn't tell how many there were, but the next morning I found out there were fourteen others.

Q In the same cell with you?

A Yes, sir.

Q Why were you arrested?

A I didn't know the charge they had against me.

COLONEL CHASE: Mr. Simon, is it your intent to recall this witness later?

MR. SIMON: Yes, sir.

COLONEL CHASE: Suppose we postpone the questioning until that time.

MR. BLACK: All right, sir.

MR. SIMON: Sir, I would like to ask one more question.

REDIRECT EXAMINATION

BY MR. SIMON:

Q You said there was a concrete building. Will you tell us what you mean by a concrete building?

A Reinforced concrete just like the Army - Navy Building.

Q There was no brick in that building?

A I don't think so.

MR. BLACK: May I ask one question.

COLONEL CHASE: Just a moment before you do. In order to tie these two things together, I would like to ask a question. What was the construction of the Bacolod High School?

A The same, concrete, reinforced concrete.

RECROSS-EXAMINATION

BY MR. BLACK:

Q Do you know the accused in this case?

A Yes, sir.

Q What is his name?

A His second name is Kawamori.

Q What is his second name?

A Kawamori.

Q What did you know him as?

A When he came to Bacolod he was chief of the Kempei Tai. He substituted for Sergeant Morikawa.

COLONEL CHASE: Let us postpone this line of testimony until this witness is recalled, since we have completed the information which the Commission desires from this witness at this time.

(Witness excused.)

FELIPE YAP

a witness previously called by the prosecution, having been duly sworn, was reminded he was under oath, and testified as follows through Interpreter Dianala Jo:

CROSS-EXAMINATION (continued)

BY MR. SIMON:

Q Mr. Yap, I am showing you an aerial photograph of Bacolod. I will indicate to you some of the streets and see if you can orient yourself on this map.

A How could I tell because when we were brought we were inside the truck and we were not allowed to peep because of the Japanese guards.

Q Now what time of the day was it when you arrived in Bacolod?

A We arrived late in the afternoon.

Q On what day?

A I could not remember. It was late in the afternoon.

Q Do you recall on what day you were arrested at Talisay?

A April 1944.

Q What date in April?

A I do not know. That is all.

Q Was it on April 19, 1944?

A It was April 1944, the date I cannot remember.

Q Was it light outside so that you could see when you arrived in Bacolod?

A How could we see because we arrived very late already.

Q When you arrived at the building in which you were confined, did the truck drive up to the front of that building?

A It stopped on the road.

Q And you walked from the road to the building, is that true?

A Yes.

Q What type of road was it -- the surface of the road over which you walked to go from the street to the building? Cement?

A Not cement. It is covered with gravel.

Q Was it asphalt? You know what an asphalt road is?

A Yes, I know.

Q And it was not an asphalt road?

A No.

Q And was the entrance from the street a moon-shaped entrance or a horseshoe-shaped entrance -- withdraw that -- do you understand what moon-shaped and horseshoe-shaped is?

A Yes.

MR. BLACK: I suggest you ask him to draw that for you.

Q Will you sketch, if you can, the shape of the entrance of the building?

COLONEL CHASE: You mean by that the road going in from the main road to the building?

A Here, we stopped here (indicating the road) and walked up to here (indicating the building).

BY MR. SIMON:

Q Now did you notice a sign on the building?

A Yes.

Q What kind of a sign was that?

A Private Hospital.

Q Did it say "Private Hospital"?

A Yes.

Q Was that in wood or iron or what type of construction?

A It is attached to the cement.

Q It is attached to the cement. Is it painted or wooden boards?

A I could not tell because we were on the ground, and that is very high.

Q How do you know it was attached to the cement?

A Because when we looked up it was attached there.

Q On which side of the building was this sign located?

A In front of the building.

Q Could you indicate that on a sketch -- where the sign was located on that building?

MR. BLACK: Mr. Simon, may I suggest you ask him two questions. "Did it extend all the way?" or "Was it on the center of the side where he saw it?"

MR. SIMON: See if he can do it by sketch.

MR. BLACK: I have no objections.

MR. SIMON: Could you indicate by sketch on what portion of the building this sign was located?

A I could not make any sketch. All I know I have seen it there attached to the cement.

Q Was it on the left side of the building, the right side, or in the center?

A In the center.

Q What color were those letters?

A White.

Q What was the background?

A I could not tell. All I saw was the front.

Q Did you see Japanese printing on there too?

A Yes.

Q Was that above or below the sign?

A I could not tell, but there were Japanese characters there.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

Q Did you get a copy of the statement which you said you signed for Mr. Black?

A No.

Q Did you also sign statements for an American Army Officer who came to your town to talk about these incidents?

A Yes.

Q And at that time when that officer talked to you, do you recall the date?

A I could not recall.

Q Was it around December of 1945?

A I could not recall, but there is one who came to me.

Q How long ago about was that?

A I could not tell.

Q Did you blame it onto Sergeant Takeshita or Colonel Yamaguchi for your mistreatment and torture?

MR. BLACK: If it please the Commission, there is no evidence here and nothing in the Specifications and Charge

Q What was the background?

A I could not tell. All I saw was the front.

Q Did you see Japanese printing on there too?

A Yes.

Q Was that above or below the sign?

A I could not tell, but there were Japanese characters there.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

Q Did you get a copy of the statement which you said you signed for Mr. Black?

A No.

Q Did you also sign statements for an American Army Officer who came to your town to talk about these incidents?

A Yes.

Q And at that time when that officer talked to you, do you recall the date?

A I could not recall.

Q Was it around December of 1945?

A I could not recall, but there is one who came to me.

Q How long ago about was that?

A I could not tell.

Q Did you blame it onto Sergeant Takeshita or Colonel Yamaguchi for your mistreatment and torture?

MR. BLACK: If it please the Commission, there is no evidence here and nothing in the Specifications and Charge

against this accused by this man.

COLONEL CHASE: I think it is proper cross-examination. You may answer.

A Yes, Kawamori.

MR. SIMON: Will the reporter read the last question.

(Reporter read the last question.)

MR. SIMON: I will restate the question.

Q Did you tell that American officer that the person responsible for your mistreatment was Sergeant Takeshita?

A I came here just to have revenge on the Japanese.

Q You came here just to have revenge on the Japanese?

A Yes.

Q Do you have any particular Japanese that you want to have revenge on?

A Yes, Japanese, but I do not know their names.

Q In fact you never have known the names of any Japanese have you?

A None.

Q And is your testimony here based on what someone else has told you?

A No, it is out of my own mind.

Q It is out of your own mind?

A Yes.

MR. SIMON: No further questions, sir.

REDIRECT EXAMINATION

BY MR. BLACK:

Q What you have testified about is what you heard, saw, and know, is that right?

A The one I saw.

COLONEL CHASE: That isn't directly responsive.

Try again.

Q When you testified about Mananquel, Magbanua, Allic, and Rafa, was your testimony based on what you saw and heard?

A What I saw.

MR. SIMON: No further questions.

COLONEL CHASE: Questions by the Commission?

(No response.)

There appearing to be none, the witness may be excused.

(Witness excused.)

MR. BLACK: The witness may be allowed to leave the jurisdiction of the OCCW and return to his home?

COLONEL CHASE: Does any member of the Commission desire to question this witness further?

(No response.)

The witness may be released and returned to his home.

MR. BLACK: Should it become material and important in any way, the witness could be recalled if necessary. His home isn't too far away.

COLONEL CHASE: We have gone most exhaustively into his examination. I think it will be all right, because of his situation at home, to relieve him and allow him to return home as quickly as possible.

NICOLAS RAFA

a witness for the prosecution, having been first duly sworn,
testified as follows through interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q How old are you?

A Thirty-three.

Q What is your present occupation?

A Cook.

Q During the Japanese occupation of Negros, what was your
occupation?

A I was also a cook for my master.

Q Who was your master?

A Maria Lizares.

Q In about April, 1944, where did you live?

A Talisay.

Q Were you ever arrested by the Japanese?

A Yes.

Q Where were you arrested?

A In the plaza of Talisay.

Q Where were you taken after you were arrested?

A Bacolod.

Q Was there anyone else arrested with you at that time?

A Yes.

Q Tell us who they were.

A Domingo Mananquel, Anacleto Allic, Magbanua, and Felipe
Yap.

Q Did you see Felipe Yap a few moments ago when he left
this room?

A Yes.

Q Was he the man who was arrested with you at that time?

A Yes.

Q Are you married?

A Yes.

Q How many children do you have?

A Two.

Q How much school do you have?

A Third grade.

Q What happened when you, Yap, Mananquel, Magbanua, and Allic were brought to Bacolod?

A We were loaded in a truck and were placed in the Kempei Tai.

Q What building were you placed in?

A It is known as the Private Hospital.

Q Are you sure about that?

A Yes.

Q Were all of you imprisoned in a cell or a room in that hospital?

A Yes.

Q Were you all put in the same cell?

A Yes.

Q During the time that you were there, were you in that cell together all the time?

A Yes.

Q Do you know the names of any of the Kempei Tai at the hospital?

A None.

Q Do you know the accused?

A No.

Q Will you look in this room and see if you recognize anyone that you know?

A None.

Q Do you know a Japanese by the name of Kawamori?

A No.

Q How long were you kept in the Bacolod Private Hospital?

A Four days.

Q After four days were you released?

A No.

Q What do you mean "no"?

A Because we were transferred to another jail.

Q What was the name of the other jail?

A Provincial Jail.

Q Where was that?

A Near the Capitol Building.

Q In what city?

A Bacolod.

Q Were you the only one who was released at that time?

A Thirteen of us.

Q Was Felipe Yap one of them or not?

A Yes.

Q Was Domingo Mananquel one of them?

A He has not come with us.

Q Did Estanislao Magbanua come with you?

A No.

Q Did Anacleto Allic come with you?

A No.

Q How well did you know Domingo Mananquel?

A I know him because he is our companion.

Q How about Anacleto Allie?

A The same also, our companion.

Q How about Estanislao Magbanua?

A The same also.

Q Do you know **why** you were arrested?

A Yes.

Q Tell us.

A Arrested because I was pointed out by a certain fellow that I was a USAFFE.

Q Were you a USAFFE?

A No.

Q Was Mananquel a USAFFE?

A No.

Q Do you know that?

A Yes.

Q Was Magbanua a USAFFE?

A Not also.

Q What about Allie?

A Not also.

Q Were you or any of these that you have just mentioned guerrillas?

A Not guerrillas.

Q At the time that you and your companions were arrested, what was your occupation?

A Cook.

Q What about Magbanua, Mananquel, Allic, and Yap, what were their occupations?

A They were in the markets selling fish.

Q They were fishermen?

A They were not fishermen but they only sell fish in the market.

Q This was the place, this market place where you were arrested?

A No, in the plaza.

Q While you were in the Bacolod Kempei Tai Hospital, did you see anything happen to Domingo Mananquel?

A Yes.

Q What did you see?

A Domingo Mananquel was killed, he died.

MR. SIMON: Move to strike that as a conclusion of the witness.

MR. BLACK: I will agree that be stricken.

COLONEL CHASE: It will be stricken.

Q Was Domingo Mananquel investigated?

A Yes.

Q Where?

A Right there where we were imprisoned.

Q That was at the Bacolod Private Hospital?

A Yes.

Q Did you see him after his investigation?

A Yes.

Q What did you see?

A I saw him to be groggy already.

Q What do you mean you saw him to be "groggy already"?

A He could no longer talk, and that his body is already too weak.

Q How could you tell that he could not talk and that his body was too weak?

A Because when he came from upstairs where he was investigated he was carried by two men, brought downstairs, and he could no longer stand.

Q Who were the two men who carried him?

A I do not know, because we were in jail.

Q Did you see him carried downstairs?

A Through the sound of the shouts I know.

Q How did you know that it was Mananquel?

A Because when they arrived at the door of our cell he just collapsed there.

Q Did you see that?

A Yes.

Q Was he brought into your cell?

A Just right there (indicating), outside.

Q Did he remain outside the cell or was he brought into the cell?

A When we saw him we pulled him inside.

Q Who do you mean by "we"?

A I was together with one of the prisoners who were inside.

Q Do you remember the prisoner's name?

A I could no longer remember because it is already for a long time.

Q After you pulled him into the cell, what did you do with him?

A When he was inside, he could no longer talk.

Q Did you put him to bed?

A No, he was just lying on the floor.

Q Did you look at his face?

A Yes.

Q Tell us what you saw on his face?

A A wound here (indicating). There was a swelling at the back of his head (indicating), broken legs (indicating); his hips are also broken.

Q Do you mean his hips or his back?

A Here (indicating).

MR. BLACK: Let the record show the witness pointed to his back.

COLONEL CHASE: Before you leave that will you clear up what the witness means by "broken"?

Q What do you mean by it was "broken"?

A I want to say that it was here (indicating), that it was broken, and that he could not stand. And his legs have wounds, and that the back of his neck is swollen. That is what I have seen.

Q Did you put him to bed?

A No, he was just lying on the floor.

Q Did you look at his face?

A Yes.

Q Tell us what you saw on his face?

A A wound here (indicating). There was a swelling at the back of his head (indicating), broken legs (indicating); his hips are also broken.

Q Do you mean his hips or his back?

A Here (indicating).

MR. BLACK: Let the record show the witness pointed to his back.

COLONEL CHASE: Before you leave that will you clear up what the witness means by "broken"?

Q What do you mean by it was "broken"?

A I want to say that it was here (indicating), that it was broken, and that he could not stand. And his legs have wounds, and that the back of his neck is swollen. That is what I have seen.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q Do you mean that any of the bones were broken in his legs, his hips, or his back?

A Deep blue bruises.

DIRECT EXAMINATION (Continued)

BY MR. BLACK:

Q Where?

A Here at his hips and at the back of his neck and on his legs are wounds. (Indicating).

Q Were there any deep blue bruises on his back?

A Yes.

Q How do you know?

A He was already naked when he was brought in with us.

COLONEL CHASE: Will the reporter read the last question and answer, please?

(The last question and answer were read.)

Q Did he have on a shirt and cap?

A No more.

Q Did he have on shoes?

A No.

Q Any stockings?

A None.

Q Any pants?

A Short pants.

Q What color?

A Color, khaki.

Q Were they the kind of pants that are worn outside or under other clothes?

A Like underwear.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The witness is reminded he is still under oath.

(Translated to the witness by Interpreter Dianala Jo.)

MR. BLACK: May we have the last question and answer, please?

(The last question and answer were read.)

Q Were you in the room when Domingo Mananquel was taken out to be investigated?

A Yes.

Q You were also in the room when he was brought back, is that right?

A Yes.

Q Was he taken out of the building?

A No.

Q How do you know?

A Because upstairs they investigate.

Q Did anyone come to take him out of the room?

A Yes.

Q Do you know who it was?

A No.

Q Was the man or men who took him out of the room the same as those who brought him back to the room?

A I could not recognize because it was outside.

Q What do you mean by "it was outside"?

A Outside of the cell where we were, and we were inside.

Q Do you mean by that that somebody came to the outside of the cell and called him out?

A Yes.

Q What was said, if anything?

A He said, "Domingo Mananquel."

Q Was it a Japanese, if you know?

A Yes, a Japanese was the one.

Q Was there one or more?

A One Japanese.

Q Did you examine his body or just see it?

A I examined.

Q How close were you to him?

A I was the one who took care of him.

Q What kind of care did you take of him?

A While he was outside, my companion and I pulled him inside.

Q What else did you do to him or for him after you brought him inside?

A I asked him if he could still talk, and because he could not talk he died later on.

Q Did you stretch him out or sit him down, or what?

A I had him lie down.

Q Did you put anything under him?

A No, because there are nothing inside to be used as cover.

Q Could you tell us for approximately how long it was after he was taken out from this cell and then brought back to the cell?

A I calculated that he was taken from us at about ten

o'clock in the morning and was brought back to us about three o'clock in the afternoon.

Q Was he taken out of the room after breakfast?

A We had only one meal a day there.

Q What time was that meal?

A I calculated it to be about ten o'clock.

Q In the morning?

A Yes.

Q Was he taken out before or after he had that meal?

A Yes, after we have taken our meal.

Q And you say you calculated it to be about three o'clock when he was brought back, is that correct?

A Yes.

Q Do you know whether Felipe Yap was in the room with you when Mananquel was taken out?

A Yes.

Q Was Felipe Yap in the room when Mananquel was brought back into the room?

A Yes.

Q After you had sort of put him down on the floor as you stated, what, if anything else, did you see happen?

A He was lying on the floor and the guard was peeping through the small window and saw the prisoner dead.

Q Was it a Japanese guard?

A Yes.

Q Was there a Japanese guard on the floor near the cell all the time?

A Yes, there is always a guard.

Q When you said he looked through the window, what kind of a window was it?

A A small window.

Q About how small, can you indicate with your hands?

A The length is like that and the height like that (indicating).

MR. BLACK: Let the record show the witness indicated something like fifteen inches wide and about ten inches high.

COLONEL CHASE: That is satisfactory.

Q Was there glass in that window?

A None.

Q Was there anything covering that space?

A There is no covering. It is only a hole.

Q It is only a hole?

A Yes, they made only a hole.

Q Were there any wires on it?

A None.

Q When you looked out of this hole, where would you look into?

A In our cell.

Q That is when you looked from the outside, you could look

into your cell, is that what you mean?

A Yes.

Q Now, when you looked from inside this cell, where would you look into?

A The inside could be seen by him.

Q Would you look out into the street or into an alleyway or a corridor?

A This is an alley here (indicating); the Japanese are guarding here (indicating); this is a small hole where we used to pass.

Q When you say, "This is a small hole where we used to pass," you passed to where?

A To where we were imprisoned.

Q In the cell?

A Yes, in our cell.

Q About how far above the floor was this hole through which you used to pass into the cell?

A Only one man could pass through that hole.

Q I ask you again, indicate by showing on this table from the floor, how high that hole was.

A This is the floor (indicating). They passed the hole here. Only one man could get in.

Q This is the floor (indicating). In here is your cell (indicating). Show me how high from the floor the hole was.

A Here (indicating).

Q Show me where the hole started and how far up it went.

A It started here (indicating); the height is about here (indicating), and one man could get in.

Q About two feet above?

A Yes.

Q Could you walk into that hole?

A Yes, you can sneak in.

Q Do you by "sneak in," that you could crawl in?

A You could only stoop down, but not crawl.

COLONEL CHASE: Let the record show the witness illustrated by a crouching position with his head and shoulders below the top of a table which is approximately thirty inches.

Q You could not walk in straight, standing up, could you?

A No.

Q After Mananquel was brought back into the cell, did you remain in that cell that whole day?

A No.

Q Were you taken out of the cell?

A We were sent outside where we were imprisoned.

Q After Mananquel was brought back into the cell by you and your companions, did Mananquel remain in the cell?

A No more.

Q Was Mananquel taken out of the cell?

A He was inside the cell.

Q Yes, he was inside the cell. Was he taken out of the cell after you brought him into the cell later that day or that night?

A The dead was still inside. We were brought outside and were tied with our hands at the back.

EXAMINATION BY THE COMMISSION (Continued)

BY COLONEL CHASE:

Q Was that when you were taken to the Provincial Jail?

A Yes.

Q About how long after Mananquel was brought back to the cell were you taken to the Provincial Jail?

A Mananquel was in the cell and we were transferred to the Provincial Jail.

Q How long after Mananque died, if he died, were you taken to the Provencial Jail?

A He was dead already when we went out.

Q Was his body still in the cell when you left?

A Yes.

Q When was it? Was it one hour, or two hours, or three hours when you were taken to the Provencial Jail after he died?

A At that time when he died, we were immediately sent out and tied with our hands at our back and brought to the Provencial Jail.

COLONEL CHASE: Excuse me for interrupting.

MR. BLACK: That is perfectly all right, sir.

COLONEL CHASE: Go ahead.

FURTHER DIRECT EXAMINATION

BY MR. BLACK:

Q What makes you say that he was dead?

A He is dead because he does not breathe.

Q Did you look to see and feel if he was not breathing?

A Yes.

Q What did you do?

A I looked over his body and I examined his eyes and his breath. He does not move. That is what I have done to him.

Q Did you see him move any part of his body?

A Not moving any more.

Q Before this incident or after this incident, did you ever have occasion to look at the body of a dead person?

A He is the only person who I saw that died there.

Q Did you see any other dead person at any other place at any other time--May I withdraw that question? From the time you were fifteen years old until today, did you ever see a dead person?

A Yes.

Q How many would you say?

A I have seen many.

Q And can you tell when a person is dead or alive?

A Yes.

Q No question about that, is there?

A Yes.

Q Is there any question in your mind that Domingo Mananquel was dead?

A Yes, he is dead.

Q From the time the man's body was brought into the cell by you and your companions, how much time elapsed until you were tied and taken out?

A That same time after we were tied we were loaded on the truck.

Q Do you remember when you dragged the body into the cell with your companions, is that right?

A Yes.

Q All right. Now, you remember when you were tied and taken away, is that right?

A Yes.

Q Now, from the time you brought Mananquel into the cell until the time you were tied and taken out, how much time, approximately, had elapsed? Can you understand that?

A Yes.

Q Tell us.

A When we dragged the body of Mananquel inside, later on he died, and the guard saw that he was dead already.

MR. BLACK: Just a moment, I will try again.

COLONEL CHASE: Let him finish. Perhaps, by getting the entire statement, we can find out.

MR. BLACK: I don't want to interrupt, but, at the same time, I don't want to have the same answer over and over again.

COLONEL CHASE: Let him finish and see what he has to say.

A (Continuing) The Japanese saw that he was dead. We were asked to go out and we were tied and loaded on the truck.

Q Earlier you stated that you calculated it to be, or to have been, about three o'clock when Mananquel was brought back to the cell, is that correct?

A Yes.

Q Were you taken out of the cell later that day?

A After he was dead, we were brought out.

Q Was it in the evening or that night when you were tied and taken out?

A On the same day.

Q Could you tell us approximately what time of the day you were taken out of the hospital?

A As far as I could estimate, it is about three-thirty in the afternoon that we were taken out from there.

Q Do you know what happened to Domingo Mananquel after you left?

A I do not know what happened to him because we were already in the Provencial Jail.

Q Do you know Domingo Mananquel's family?

A Before, we knew each other, but now we are not very close with one another.

Q Did they live in the same town where you come from?

A Yes, but now his family is scattered already.

Q Are there any members of his family in Talisay?

A Yes, there are some.

Q And until a few months ago you had been living in Talisay, is that right?

A I have been about four months now here in Manila.

Q But, until you came to Manila, you had been living in Talisay?

A Yes.

Q And during the time that you have lived in Talisay, have you seen members of his family--Mananquel's family?

A I have seen his wife in Bacolod.

Q Did you ever talk to his wife?

A No, because I was too busy.

Q Did you ever tell his wife what you testified here?

MR. SIMON: I object to that. The witness said he did not talk to his wife. Prosecution is leading the witness.

COLONEL CHASE: Let him answer that question in order to clear up the point as to whether he clearly understood the first one.

A I have not spoken with her.

Q Did you ever speak to anybody else about Domingo Mananquel?

A Yes.

Q Did anyone ever ask you anything about Domingo Mananquel?

MR. SIMON: Defense is going to object to this line of questioning as being incompetent, irrelevant and immaterial.

COLONEL CHASE: For the information of the law member, what are you trying to bring out in this, Mr. Black?

MR. BLACK: I am trying to find out from the answer whether he was asked by other people and whether he told other people what happened to Mananquel?

MR. SIMON: Sir, there has been no impeachment of this witness. It is improper direct examination to continue to ask that type of question at this time.

MR. BLACK: I am not impeaching him.

COLONEL CHASE: I don't think the question is intended to impeach. You may ask that question and see what you get, and see whether it is worth pursuing that line of questioning.

MR. BLACK: I can eliminate all those preliminary questions if I can ask him one question, if that is all right with Mr. Simon.

MR. SIMON: I don't know what the question is.

Q Did you ever tell anybody that Domingo Mananquel was dead?

MR. SIMON: I am going to object to that question as leading. The fact that he has talked to other people before he came here, in which he made the same assertions, is immaterial. We heard his testimony. We don't care whether he told that to anybody else. It is immaterial.

MR. BLACK: I think it is material.

COLONEL CHASE: I will let you get an answer to your question.

A Yes.

Q Have you seen Domingo Mananquel from the time you left Bacolod Kempei Tai until today?

A No more.

Q Do you know of anyone who has seen him?

A I do not know.

Q Do you know whether Estanislao Magbanua was investigated at the Bacolod Kempei Tai?

A Yes.

Q Do you know whether he was beaten?

A He was also beaten.

Q Did you see him when he was beaten?

A When he came from upstairs down, when he was already in our room, his body had plenty of bruises.

Q Was he investigated and beaten on the same day that Mananquel was, or was it on another day?

A Some other day. He was investigated ahead.

Q You mean he was investigated and beaten before Mananquel was, is that right?

A Yes.

Q Could you tell us how badly, or how severely, he was beaten?

MR. SIMON: Defense will object to this line of questioning this witness. There has been no foundation laid to show this witness ever saw anybody beaten. All his testimony is apparently based on what he saw when he saw a man come back to the cell. The prosecution is now talking about how severe a beating was administered, and they must have an eye witness to that.

COLONEL CHASE: You had better confine your testimony to matters to which this witness has seen.

MR. BLACK: He testified that he did not see him beaten. That is in the record. All he can do now is to testify as to what he saw.

MR. SIMON: How would he know how severely the man was beaten?

MR. BLACK: I will ask him if he knows, and why he knows, and vice versa.

Q Did you see Magbanua when he came back after the investigation?

A Yes.

Q Describe what you saw.

A I saw his shoulders blackened due to beating. That is what I have seen.

Q Was Anacleto Allie investigated?

A Yes.

Q Did you see him beaten?

A I have not seen, but it is just the same also; that is, after he arrived at our jail his arms are also blackened, due to beating.

Q Any other parts of his body?

A Those are all.

Q Do you know what happened to Allic and Magbanua?

A I do not know what happened to both of them, because they were left in the cell where we were, and we were brought to the Provincial Jail.

Q When you said that Allic was brought to the jail in the condition that you described, was he taken out of the Bacolod Hospital?

A No, they were left there.

Q Where was he investigated,--in the hospital or was he taken out of the hospital?

MR. SIMON: Objection, this witness does not know. All he knows is that the man was taken out of the cell there. They may have transported him forty or fifty miles away to investigate him.

COLONEL CHASE: Let the witness answer.

A Inside of the hospital.

Q When you, Yap, Mananquel, Allic, and Magbanua were arrested and brought to the Bacolod Hospital, were any of you beaten then?

A Yes, I was one of those beaten.

Q Where?

A Right there at the hospital.

Q How about the others?

A Likewise, also.

Q At the hospital?

A Yes, right there.

Q Were you or any of the others mentioned beaten before you got to the hospital?

A With respect to myself, I was not beaten anywhere else, not until I was in the hospital.

Q Was Estanislao Magbanua beaten before he got to the hospital?

A Yes, he was beaten at the Plaza.

Q How?

A The beating was that he was jujitsued, and when he fell on the ground, he was beaten with the back of a gun.

Q Where were you and the others taken?

MR. SIMON: I am going to move that that be stricken.

COLONEL CHASE: Where was the point at which this beating took place?

MR. SIMON: At the Plaza, Talisay.

MR. BLACK: I will consent to the whole thing being stricken.

COLONEL CHASE: Unless there is some good reason for it, I don't believe that any one of those other people arrested at Talisay form the basis of any specification in this case. Unless there is some good reason, I think we can pass that line of questioning.

MR. BLACK: I am merely referring to the people mentioned.

COLONEL CHASE: There is no charge in this case for the beating of these people except these three individuals.

MR. SIMON: Sir, the beating was at the Plaza by some of the soldiers, I think with a rifle. That was when these people were apprehended at Talisay.

COLONEL CHASE: I have already ruled that he is to stop that line of questioning.

MR. BLACK: The defense may inquire.

CROSS EXAMINATION

BY MR. SIMON:

Q Were you arrested on 19 April 1944 by the Japanese?

A Yes.

Q Was that the first time you were ever apprehended by the Japanese?

A Yes.

Q And how many Japanese came to Talisay that day that you were arrested?

A Many.

Q Were there two hundred, more or less?

A Probably there would be more than two hundred.

Q Now, do you know Colonel Yamaguchi?

A I do not know him.

Q Didn't you testify in the case of Yamaguchi over in the main courtroom?

A No.

Q Did you testify at any previous case here in Manila?

A Yes.

Q Didn't you testify concerning your mistreatment and torture by the Japanese?

COLONEL CHASE: I don't quite follow this, Mr. Simon. On your own objection, I ruled out reference by anybody except these three people. Is there any particular reason why you want to put this in now?

MR. SIMON: Yes, sir. It will show where this man was taken after he was arrested by this large group of Japanese that came to Talisay.

COLONEL CHASE: All right, continue.

MR. SIMON: Will the reporter give me the last question?

(Reporter read the last question.)

A Yes, I testified as to the maltreatment the Japs had given me.

Q Weren't you, Yap, Magbana, Allie and Mananquel, together with other people from Talisay, taken back to Bacolod on the 19th of April, 1944?

A They were my companions in the truck.

Q And the truck returned to Bacolod, and did it stop at the Bacolod High School?

A No.

Q Do you know Sergeant Takeshita?

A No.

Q Were you ever mistreated--withdraw that-- Did Sergeant Takeshita investigate you around the 19 April 1944 in Bacolod?

MR. BLACK: He stated he does not know
Sergeant Takeshita.

MR. SIMON: He might remember.

COLONEL CHASE: Let him answer, if he knows.

A I was investigated, but I do not know the name of the
Japanese.

Q Are you familiar with the buildings in Bacolod?

A I am not from Bacolod. I stay there only for four days.

Q How do you know in which building you were taken?

A Because there is a sign board there.

Q Yes, and is there a big wooden sign with red letters
on it?

A Wood.

Q Wooden sign, and is it red letters?

A I do not know whether the letterings are red.

Q Is it black lettering?

A I am sure it was black.

Q And didn't the letters--withdraw that. Do you read
English?

A I know very little, but I could not speak very well.

Q Do you read Visayan?

A Yes.

Q Didn't the sign say in Visayan that the building was
a private hospital?

A Yes.

Q Now, was it in Visayan or Tagalog?

A "Private Hospital" is in English.

Q In English. Did it say below that, in Tagalog, that it
was a private hospital?

A All that I remember is "Private Hospital."

Q Did you see a red border around that wooden sign?

A I have not observed.

Q Did you see a sign at all on the building?

A Yes.

Q And was this sign on the lawn or on the yard in front of the building?

A In front, as you come in there.

Q Is it on the yard in front of the entrance?

A When you come in, it is right in front of you, the name.

Q Is it in small print by the doorway?

A It is a big letter signboard.

Q Big signboard.

COLONEL CHASE: The Commission will recess until 1300 this afternoon.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: May the record show that when the Commission reconvened all the members of the Commission were present, the defense counsel, the accused, the accused's personal interpreter and the prosecutor.

MR. BLACK: The witness is reminded he is still under oath.

(Translated to the witness by Dianala Jo.)

CROSS-EXAMINATION (CONT'D)

BY MR. SIMON:

Q Do you recall what time of the day it was when the townspeople of Talisay were assembled in the plaza?

A I could not remember the time but I remember the date.

Q Was it in the morning?

A In the afternoon.

Q Did they take all the townspeople of Talisay back to Bacolod or only a portion of them?

A Only those that were caught were brought to Bacolod.

Q Isn't it true that the Japanese came there to check who had identification papers and only those without the proper papers were taken back to Bacolod?

A No.

Q Didn't the Japanese check the persons at Talisay to see which of them had their amnesty papers with them?

A No.

Q When the Japanese came to Negros didn't they issue to the guerrillas that turned themselves in certain identification papers?

A They did not issue.

Q How do you know that?

A The guerrillas lived in the mountains.

Q Isn't it true then that the Japanese took back to Bacoled with them all persons whose papers, identification papers, were not in proper form?

A I do not have papers but I was also brought to Bacoled.

Q Isn't that the reason you were brought to Bacoled because you didn't have a certain paper that the people had for identification?

MR. BLACK: Just a moment, if it please the Commission, that other people didn't have a certain paper; how could he know what papers other people had or didn't have? He can only state why he was brought if he knows.

COLONEL CHASE: He can answer if he knows.

A I was also one of those who were pointed out even if I do not have papers yet I was also brought to Bacoled.

Q Is it true that only suspected guerrillas were brought back to Bacoled from Talisay?

A All those that were pointed out were brought to Bacoled.

Q What do you mean by this pointing; who did this pointing?

A The person that they could beat at the plaza of Talisay points somebody out and again this one points someone after being beaten and he will point to someone else.

Q When they would beat somebody at the plaza at Talisay what type of questions would they ask them?

A They asked whether they are guerrillas and even if you are not guerrillas they beat you just the same.

Q Did they beat a good many people at Talisay before going to Bacoled?

A Yes.

Q Were all these people that were beaten then loaded on the truck and brought to Bacoled?

A Yes.

Q Did you testify in the case of the United States of America versus Takahashi?

A I have not declared.

Q Do you recall being in Manila on 25 September 1946?

A No.

Q Isn't your name Nicholas Rafa? N-i-c-h-o-l-a-s R-a-f-a?

A Yes.

Q Isn't your age about 33?

A Thirty-three.

Q Your occupation is a cook?

A Yes.

Q And your residence?

A Talisay.

(Off-record discussion)

MR. BLACK: May the record show that the witness stated that his first name does not contain an "h".

Q Now, did all the trucks run to Bacoled together on April 19, 1944?

A The trucks of the Japanese where we were loaded?

Q Did they all go together in a group to Bacoled?

A They were together that afternoon.

Q When you got to Bacoled did all the people get off the truck at the same place?

A Seventeen of us came down to the one place and the rest we do not know.

Q Did all the Japanese soldiers get down at the same place with you seventeen?

A They also came down.

Q And you all went to the various buildings together?

A We were together there and then we were brought to the cell.

Q In this building in which this cell was located where you were first confined did you notice other buildings on that same area?

A A little bit of a distance.

Q Did the soldiers go to those other buildings near the building where you were confined.

A I do not know because we were inside.

Q Did the truck drive right up to the door of the building?

A Yes, and we came down.

Q You are sure the truck stopped right at the door of the building?

A Yes.

Q Did you see any Japanese come into the cell and inspect the body of Mananquel?

A Yes, but I do not know him.

Q Is this the guard that you mentioned that looked through the door at his body or someone else?

A The one who peeped through the hole and there is another one.

Q Did this other one come into the cell, walk into the cell?

A Yes.

Q Through which door did he come in, through the wooden door?

A Yes.

Q Was this wooden door as large as the door over there behind you (indicating)?

A Even bigger than that.

Q And the Japanese walked through that door into your cell, isn't that true?

A Yes.

Q Do you know what a thermometer is?

A No.

Q Did you see this man, this Japanese, putting something into the mouth of Mananquel?

A None.

Q What did that Japanese do?

A He had a cane and he just touched him with it and then went out.

Q Did he put the cane to his ears and **listen**?

A No.

Q What portion of Mananquel's body did he poke with that cane.

A Here (indicating).

MR. SIMON: Let the record show the witness indicated the chest.

Q Didn't you see him rap him on the side of the leg with a cane?

A No.

Q Didn't you see him strike him with a cane?

A No.

Q Did he do anything else besides touch him with a cane?

A No.

Q On what date were you placed in the cell?

A On April 19, 1944 at 7 o'clock.

Q Was that 7 o'clock in the evening?

A Yes.

Q Had the sun gone down already at that time?

A Dark already.

Q But there was a big clear moon out so that you could see the sign on the building to which you were taken, is that true?

A There are lights and the lights are bright.

Q Is that a neon light around that sign?

A Bulbs.

Q How many bulbs are right over that sign?

MR. BLACK: He didn't say "over that sign".

MR. SIMON: I withdraw that question.

Q Where are these lights located?

A When you arrive there the lights are there on the place we came down.

Q Didn't they have lights that shown right on that sign so you could read it?

A On that signboard there are lights on the top.

Q Now, what date were you transferred from that building or the cell to the provincial jail?

A We stayed four days in the place where we were imprisoned and then moved to the provincial jail.

Q Do you know Felipe Lumaang?

A No.

Q How many people were confined in that same cell with you?

A We were 17 only.

Q Did you know the names of all of those men?

A The rest I do not know.

Q Do you know Evangelista Algarme?

A No.

Q Anacleto Allic?

A Yes.

Q Igmidio Apohen?

A No.

Q Wenceslao Bironde?

A No.

Q Bienvenido Buenaventura?

A I know.

Q Wasn't he arrested at the same time you were?

A Yes.

Q And he was taken to the same place with you?

A Yes, and the following morning he was taken away from there.

Q Do you know Julian Buenaventura?

A No.

Q Do you know Jovita Casiple?

A No.

Q Melchor Celia?
A Yes, I know him.
Q Was he arrested at the same time you were?
A Yes.
Q Was he taken to the same place you were?
A Yes.
Q Was he kept in the same cell with you?
A Yes.
Q Was he released and taken to the provincial jail
at the same time you were?
A Yes.
Q Do you know Pablo Cervantes?
A No.
Q Do you know Manuel Chua?
A No.
Q Do you know Conrado Clavacollas?
A Yes.
Q Was he arrested at the same time you were?
A Yes.
Q And taken to the same place you were?
A Yes.
Q And taken to the provincial jail at the same time
you were?
A Yes.
Q Do you know Diosdado Garcia?
A No.
Q Do you know Romeo Junco?
A No.

Q Do you know Ernesto Locson?
A Yes.
Q Do you know Eleuterio de Luao?
A No.
Q Estanislao Magbanua?
A Yes.
Q Were those two men arrested at the same time you were?
A Yes.
Q Were they taken to the same cell you were taken?
A Yes.
Q Were they transferred to the provincial jail when you were?
A Estanislao Magbanua and Anacleto Allic were not transferred.
Q Do you know Domingo Mananquil?
A Yes.
Q Was he taken to the same cell you were taken to?
A Yes, in that first jail when I was imprisoned for the first time.
Q Do you know Rodolfo Robles?
A No.
Q Felix Sapitola?
A No.
Q Felipe Yap?
A I know him.
Q Was he taken to the same cell in which you were placed the first time?
A Yes.

Q Did a War Crimes Investigating Officer interview you about this incident before you came to this courtroom?

A I was investigated there in Negros.

Q And didn't you tell that investigator that Akira Takeshita was the person who arrested and mistreated you?

A I did not say that he was the one who maltreated me.

Q Do you know Akira Takeshita?

A No.

Q Did you tell the investigator who you thought it was that had maltreated you and your companions?

A I could not tell because I do not know any Japanese.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Any questions by the prosecution?

MR. BLACK: I have one question.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Was Domingo Mananquel taken out of the Bacolod hospital and taken to the Provincial Jail?

A No, he was left there.

Q When you were brought to the Bacolod hospital how much time did you spend looking at the hospital, and at the signs and at the places surrounding the hospital?

A On that same evening I saw the signboard.

Q When you were brought to the Bacolod hospital and taken off the trucks, were you taken inside the hospital immediately?

A Yes.

MR. BLACK: No further questions.

Q And didn't you tell that investigator that
MR. SIMON: Sir, I have one more question.

RECROSS-EXAMINATION

BY MR. SIMON:

Q When you and your companions were taken from Talisay to Bacolod, did you make any stops other than at the place where you were confined for four days?

A We were stopped right there on the place where we were imprisoned.

Q And you were imprisoned at no other place during those four days except that building where you were first taken, is that true?

A Yes.

Q And from there you were transferred to the Provincial Jail?

A After four days then after we were investigated we were brought to the Provincial Jail.

Q Is that the jail that is operated by the Filipino Constabulary in Bacolod?

A Probably that is the jail.

Q Was it at the -- do you know which building that jail was in, was it at the old city hall, the Bacolod City Hall?

A That building is outside of Bacolod.

Q Did the investigator take you back to the building in which you said you were confined before you came here for this trial?

A Who is the investigator?

Q This American officer. What town were you in when he talked to you about this incident?

A Talisay.

Q Then you did not go to Bacolod to look over this scene where this incident supposedly happened, did you?

A No.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q You testified that when Estanislao Magbanua, and Anacleto Allie, and Domingo Manonquel were brought to the cell from the investigation room that you saw certain marks and bruises on their bodies?

A Yes.

Q Did you see each of them before he was taken to the investigation room?

A We were in the same cell together.

Q Can you tell me whether or not you saw any of these marks or bruises concerning which you testified before any of these men were taken from the cell to be investigated?

A Before we went to the investigation room they do not have those bruises.

COLONEL CHASE: Any further questions by prosecution or defense?

MR. BLACK: I have one question to clear up an inference or intimation made in the cross-examination.

REDIRECT EXAMINATION

BY MR. BLACK:

Q Is this the first time that you have appeared before a Commission to testify?

A This is the second time.

Q When was the first time you appeared to testify?

A In the case of Takahashi.

Q Was that here in Manila?

A Yes.

Q Why did you say "no" to the Defense Counsel when he asked you that question, or did you say "no" to him?

(No response)

Q Do you understand my question?

A Yes, I understand.

Q Now will you tell us why, when that question was asked you by the defense counsel you said "no" and when I asked you you said "yes"?

A I said before that in 1944 --

MR. BLACK: (Interposing) Just a minute.

COLONEL CHASE: Let him finish this answer.

MR. BLACK: I don't think that will be responsive.

COLONEL CHASE: Let him finish it and see what he has to say.

COLONEL CHASE: (To Dianala Jo) Tell him that he must answer this question. If he has started to answer it go ahead and complete it. Otherwise to start again and answer the question as asked.

A What I thought was that he was asking me something when I was yet in Talisay, and now they say whether I have testified here. It is true that I have testified in the case of Takahashi.

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Q Was that here in Manila?

A Yes.

Q Why did you say "no" to the Defense Counsel when he asked you that question, or did you say "no" to him?

(No response)

Q Do you understand my question?

A Yes, I understand.

Q Now will you tell us why, when that question was asked you by the defense counsel you said "no" and when I asked you you said "yes"?

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COLONEL CHASE: (To Dianala Jo) Tell him that he must answer this question. If he has started to answer it go ahead and complete it. Otherwise to start again and answer the question as asked.

A What I thought was that he was asking me something when I was yet in Talisay, and now they say whether I have testified here. It is true that I have testified in the case of Takahashi.

Q Then it wasn't because you did not want to tell the truth but because you were mistaken, isn't that right?

MR. SIMON: The defense will stipulate to that.

A Yes, I made a mistake.

Q Do you know when you came to testify the first time against whom you were going to testify?

A Yes.

Q At the Provincial Jail when you were taken did you see any Japanese there?

A No.

MR. BLACK: I have no further questions.

COLONEL CHASE: Questions by the defense?

RECROSS-EXAMINATION

BY MR. SIMON:

Q Do you hate the Japanese?

A I am not angry.

Q Do you like them?

A What they have done to us before is the same as the present. That is all past anyway.

Q Are you under the impression that you are not to tell the full story of what happened to the defense but only to the prosecution of this incident at Talisay?

MR. BLACK: That is going to be a little difficult not only to answer but to convey.

MR. SIMON: (To Interpreter Dianala Jo) Can you handle the interpretation?

INTERPRETER DIANALA JO: I will go slowly.

A I am only telling the truth of what has been done to me.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission?

(No response)

COLONEL CHASE: The witness is excused.

(Witness excused)

MR. BLACK: The prosecution will call as its next witness Teodora Makilan who will testify in support of Specification No. 8.

TEODORA MAKILAN

A witness for the prosecution, being first duly sworn, testified as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your name?

A Teodora Makilan.

Q Do you know how to spell it?

A No.

Q How old are you?

A Twenty-nine.

Q Are you married?

A Yes.

Q How many children do you have?

A Four.

Q How much schooling did you have?

A None.

Q Can you read and write?

A No.

Q Can you sign your name?

A No.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission?

(No response)

COLONEL CHASE: The witness is excused.

(Witness excused)

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A No.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission?

(No response)

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A None.

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A No.

Q Can you sign your name?

A No.

Q In April of 1944 where did you live?
A In hacienda Kabakawan.
Q Tell us where hacienda Kabakawan is?
A It is on the southern part of the Bacolod Central.
Q Is that in Bacolod City?
A Yes.
Q Do you know Estanislao Magbanua?
A Yes.
Q Tell us who he was -- withdraw that question -- are you related to Estanislao Magbanua?
A He is a first cousin of my mother.
Q And how long had you known him?
A I knew him because we were living in the same house.
Q For how long?
A Since I was yet single.
Q About how old was he?
A I do not know.
Q Was he a young man or an old man?
A About 25 years old.
Q Was he big or was he small?
A He is tall and stout body, robust body.
Q Did he have any particular marks or characteristics about him?
A I do not know.

MR. SIMON: Sir, the defense would request information as to the proposed testimony of this witness. Is she here to prove that she saw something?

MR. BLACK: We are going to find out.

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MR. BLACK: We are going to find out.

MR. SIMON: I don't believe that so far there has been anything to show she was any place where Magbanua was. I thought maybe she would refer to it and we would find out where this witness was.

Q When was the last time you saw Magbanua?

A In 1944, in the month of April, the date I can not remember.

Q Where did you see him?

A On the bank of the creek in hacienda Kabakawan.

Q Describe what you saw.

A When I saw him he was dead.

MR. SIMON: Will the reporter read that answer, please?

(Reporter read the answer.)

Q How did you know he was dead?

A Because he is not moving.

Q How did you happen to see him?

A I went there to buy camote.

Q Where did you -- I'll withdraw that -- are you sure it was Magbanua?

A Yes.

Q What makes you sure?

A I know him very well.

Q Could you tell how long he had been dead?

A For example, the Japanese killed him today, the following morning I happened to go there.

Q Did anybody tell you to go there or did you merely happen to go there?

MR. SIMON: I don't believe that so far there has been anything to show she was any place where Magbanua was. I thought maybe she would refer to it and we would find out where this witness was.

Q When was the last time you saw Magbanua?

A In 1944, in the month of April, the date I can not remember.

Q Where did you see him?

A On the bank of the creek in hacienda Kabakawan.

Q Describe what you saw.

A When I saw him he was dead.

MR. SIMON: Will the reporter read that answer, please?

(Reporter read the answer.)

Q How did you know he was dead?

A Because he is not moving.

Q How did you happen to see him?

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Q Describe what you saw.

A When I saw him he was dead.

MR. SIMON: Will the reporter read that answer, please?

(Reporter read the answer.)

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A Because he is not moving.

Q How did you happen to see him?

A I went there to buy camote.

Q Where did you -- I'll withdraw that -- are you sure it was Magbanua?

A Yes.

Q What makes you sure?

A I know him very well.

Q Could you tell how long he had been dead?

A For example, the Japanese killed him today, the following morning I happened to go there.

Q Did anybody tell you to go there or did you merely happen to go there?

A I happened to pass there.

Q What was done with the body, if anything?

A I do not know.

Q Did you tell anyone after you found the body?

A I did not tell anybody because I was afraid.

Q Was the body buried or did it remain there?

A It was ~~not~~ buried. It was just left there.

Q Do you know what became of the body?

A I do not know.

Q Do you know how he happened to have died?

MR. SIMON: Objection as being incompetent, irrelevant and immaterial. There is no foundation yet laid to show this witness is in a position to know anything concerning how Magbanua died.

COLONEL CHASE: She can answer the question.

MR. SIMON: Sir, request that the answer be limited to yes or no.

MR. BLACK: If it please the Commission the defense counsel will have an opportunity to examine the witness.

COLONEL CHASE: The question may be answered as asked.

A I do not know. When I saw him he is dead already.

Q How long before you saw his body had you seen him before?

A About one month.

Q Had he been sick?

A No.

Q Was he in good health?

A Good.

MR. BLACK: You may examine her.

MR. SIMON: No questions, sir.

COLONEL CHASE: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q Near what barrio was the place you saw this body?

A A little bit on the North of Central Bacolod.

Q Do you know where Salong Bago, Occidental Negros is?

A I do not know.

Q Do you know where Barrio Talotog is?

A I do not know that.

MR. BLACK: If the Commission please, unless the Commission is looking for some information this particular specification has nothing to do with Barrio Salong or Barrio Talotog.

MR. SIMON: They are just trying to locate general information.

MR. BLACK: The Commission can tell me without the help of the defense counsel.

COLONEL CHASE: Very well, no further questions. Questions by prosecution or defense?

MR. BLACK: No, sir.

MR. SIMON: The defense has no further questions, sir.

COLONEL CHASE: The witness is excused.

(Witness excused)

MR. BLACK: The prosecution will call as its next witness Felipe Lumacang in support of Specification No. 14.

FELIPE LUMACANG

a witness for the prosecution, being first duly sworn, testified as follows through Interpreter Dianala Jo:

DIRECT EXAMINATION

BY MR. BLACK:

Q What is your full name?

A Felipe Lumacang.

Q Do you understand and speak English well?

A I could understand a little English, but I could not explain.

Q Would you rather testify in your own tongue?

A I like the dialect that I am use to, that is the Visayan.

Q How old are you?

A Twenty-eight years.

Q Are you married?

A No.

Q How much schooling did you have?

A Two years.

Q Is that secondary school or primary school?

A That is in the high school.

Q Where were you during September of 1943?

A I was in Murcia, Negros Occidental.

Q Did you have occasion to come to Bacoled?

A Yes.

Q Were you ever arrested by the Japanese in Bac 104?

A Yes.

Q Do you what -- do you know from what unit the Japanese were that arrested you?

A When I was placed in jail, I learned that the Japanese that arrested me were Kenpei.

Q What jail were you imprisoned in?

A Before the war that was the Private Hospital.

Q Was anything done to you while you were imprisoned?

If it will be permitted I shall testify what happened to me from the date when I was arrested up to the time when I was released.

Q Tell us what happened to you while you were imprisoned in the Bacolod Hospital at that time.

A Shall I tell the date when I was arrested?

Q What date were you arrested?

A October 13, 1943.

Q Were you imprisoned at the Bacolod Hospital?

A On that day, in the evening, I was imprisoned there.

Q How long were you kept there?

A Since that night when I was placed there up to thirteen days until I was released.

Q During the thirteen days that you were there, were you ever beaten or mistreated in any way?

A Yes.

Q Tell us.

A On October 13, 1943, on that night when I was arrested, from that day, counting one up to the seventh day, I was investigated upstairs.

Q Do you know who investigated you?

A As far as I could recall, the name of the fellow that was beating me was Nakamura.

Q How many times did he beat you?

A When I was up there in the investigation room it is approximately two hours.

Q What did he beat you with?

A A piece of wood known as "raja," which is used for fuel and as long as this (indicating) and as big as this.

Q Show us again how long it was.

A (Indicating)

MR. BLACK: May the record show the witness

indicated that it was about three feet long.

Q And how thick?

A Like this (illustrating).

MR. BLACK: May the record show the circumference to be about the width of his forearm.

MR. SIMON: Three inches in diameter.

COLONEL CHASE: Have we agreed on thirty inches long and three inches in diameter?

MR. BLACK: That is right, sir.

Q Did anyone else beat you there during that time?

A The one that was investigating me, together with his interpreter.

Q What was the interpreter's name, if you know?

A Kuwehara.

Q Spell it.

A K-U-W-E-H-A-R-A.

Q Do you know the accused in this case?

A Yes.

Q Do you know his name?

A He was known as Captain Kawamori.

Q Do you see him in this courtroom?

A Yes.

Q Walk over and point him out.

(The witness left the witness stand and approached the accused's table.)

A (Indicating)

MR. BLACK: Let the record show the witness pointed out the accused.

Q The thirteen days that you were kept in prison, how

Q When, if you know, did he receive those marks and the swelling?

A I do not know. I only saw the place where the bullets passed through.

Q Was he investigated?

A During those days when I was imprisoned up to the thirteenth day.

Q What month?

A The month of October, the year of 1943. I remember that there are times there that he was brought upstairs. I do not know whether he is beaten there, but I could only hear his voice in agony and pain.

Q Did you know a man by the name of Mercado?

A Yes.

COLONEL CHASE: Just a moment. Will you clear up, please, the point of what he means by the mark of a bullet in his hands, whether he was shot or what the significance of that was?

Q What was the mark of the bullet that you spoke of?

A According to his story to me, the wounds in his palms was hit by the Japanese bullet, that is all.

COLONEL CHASE: Was it during the time he was being investigated or some other time?

MR. BLACK: I don't think this wound the witness described happened while he was in the Kempei Tai jail. I will stipulate as to that.

MR. SIMON: Defense is glad to accept that, sir.

COLONEL CHASE: The stipulation is accepted.

Q Did you see any other marks on this man after he was investigated?

A When he was brought downstairs, his arms were swollen and his back and his right arm also.

Q Was Mercado ever investigated?

A During the period of my stay there, he was also brought upstairs and investigated and I could hear the sound and the cries that he made there.

Q Did you ever see him after he came down from the investigation room?

A Yes, because we were brought in the same cell.

Q Did you observe any marks?

A Burns on his chest which, according to him, were being made by the Japanese, and his arms were with bruises.

Q Did he appear to be suffering and in pain?

A Those swollen arms and those burns were made by lighted cigarettes, he was telling me.

Q Did you know a Sasaki?

A He was the one who used to investigate those prisoners who were with me in the cell.

Q Do you recall the next time that you were arrested and placed in the same hospital?

A Yes, in the month of March and the year 1944.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

Q The marks and other things that you saw on Mercado, did you see them before he was investigated or after?

A Before he was investigated I saw his person, and after

he returned from the investigation room I saw him also.

Q And the first time that you saw the marks and wounds on him, was it after he was investigated?

A Before he was investigated he had no marks, no wounds. When I saw him after he was investigated upstairs and had returned to our cell, I saw both wounds and marks which were on him.

Q Did you know the first names of Mercado and Ormaneta?

A The name that I could only recall is Ormaneta and the other one is Mercado.

Q Did you know a man by the name of Allic?

A Yes, during the time I was in jail he was my companion in the jail.

Q Did you know a man by the name of Magbanua?

A Yes, he was also with me in the cell.

Q Did you know Mananquel?

A Yes, in that same cell we were together.

Q Do you recall about when it was that Mananquel, Magbanua, and Allic were in the same cell with you?

A Yes.

Q Tell us when you were present in the Kempei Tai.

A I was there for three weeks. Mananquel, Magbanua, and Allic were imprisoned there.

Q What month was that, do you remember?

A In the month of April in the year 1944.

Q Do you know what happened to Mananquel, Magbanua, and Allic?

A Yes.

Q Tell the Commission what you know.

A In those days, when I was still a prisoner there, Mananquel, Magbanua, and Allic were also prisoners there. They brought Mananquel upstairs and I do not know what they did with him upstairs, but he was taken up the stairs. At about nine o'clock in the morning, more or less, I was hearing the voice of Mananquel upstairs shouting because of pain, and I do not know what has been done with him upstairs. After a long time upstairs, more or less two hours, I have not heard of his voice. After one in the afternoon, more or less, he was brought down by four Japanese and placed there at the door of our cell because the door of our cell has a hole below. They opened a small door and pushed him there, and the prisoners inside received him and placed him here in front while I was there near the wall, lying like this (indicating) and moving and shouting, saying, "Kill me ! Kill us all !" After a while of moving, after twenty or thirty minutes, more or less, he did not shout and he did not move. After that I saw at the back of his neck it was swollen, because his position in laying down was sideways and his left arm and his left leg were swollen. All parts of his body and his back also, and his pants have blood stains and also his shirt. I could not tell the source of the blood. That afternoon he was already still and could not talk. Half an hour later, more or less, I saw Captain Kawamori peek through the railing. When he peeped the door of that passage, small passage, was open and I do not know who opened it, and they came in and saw the swollen body of that man who was no longer moving.

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q When he came in the cell, did you see that?

A Captain Kawamori, and his companions. I could not recall how many were inside. After he has seen it, about half an hour more or less, he stayed inside of cell and they went out. After they had gone and we are the only ones left inside with no Japanese, a Japanese returned after half an hour more or less when they were gone. They were bringing a rattan mat. They opened the door and placed the mat inside. I could not remember whether it was a Filipino or Japanese that dropped him and tied him. After he was tied at about 4 o'clock, more or less, he was taken from inside and brought outside, and I do not know where they took him.

DIRECT EXAMINATION (Continued)

BY MR. BLACK:

Q Do you know what happened to Allic, Magbanua, and Mananquel?

MR. SIMON: I believe that is three questions in one. Separate the questions.

Q Do you know what happened to Magbanua?

A Yes, sir.

Q What happened to him?

A In those months when I was still a prisoner. After, all I can remember was that about the last part of April Magbanua and Allic were taken that night to be brought outside and I do not know where they were taken.

Q Did anyone ever tell you what happened to them?

A Yes.

Q Who?

A The Filipino boy.

Q What is his name, if you know.

A The name that I could remember is Antaro. He is the boy that used to give us our meals every day.

Q Where?

A In the cell.

Q At the Bacolod Private Hospital?

A Yes.

Q What did he tell you?

MR. SIMON: Objection here until we establish a foundation as to whether he knows where Antaro got his information of what happened to the body.

COLONEL CHASE: Objection not sustained. He can answer.

A When I went out going to the toilet he was there cleaning the toilets alone.

Q Is this Antaro?

A Yes, the boy who informed me.

Q What did he inform you?

A I asked him where those two persons that were taken out from our cell go.

Q Who were those two persons?

A Allic and Magbanua.

Q And what did he tell you?

A He told me that they were dead. They were brought to the patrol campaign.

(Off-the-record discussion)

Q What is a patrol campaign?

A I do not know myself but I was only informed by that boy that they brought in this patrol campaign.

Q Was Mananquel also taken on this patrol campaign?

A After what had happened with him in the cell, he was brought out. I do not know where they brought him.

Q When they took Mananquel out of the cell was he alive?

A I could not tell whether he was dead or alive, but when I saw him he could no longer move and could not talk.

Q Before you took the stand to testify in this case what were you doing?

A I am not doing anything.

Q Did you testify in another case?

A Yes.

Q What case?

A Yamaguchi.

Q Was that today?

A I finished already.

MR. BLACK: No further questions.

MR. SIMON: Sir, the defense at this time would request a recess until 0830 Tuesday morning. Monday is a legal holiday and the accused has not been feeling too well and he would like to go to sick call and rest tomorrow. We will be ready to proceed Tuesday, sir.

MR. BLACK: The prosecution has no objection.

COLONEL CHASE: It now being about four minutes before the normal time for adjournment for the day, the Commission will now recess until 0830 Tuesday morning, 12 November, 1946.

(The Commission adjourned at 1456 hours, to reconvene at 0830 hours, 12 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

VOLUME VI
PAGES 432 TO 522, INCL.

MANILA, P. I.

DATE: 12 November 1946

COPY NO. 10

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
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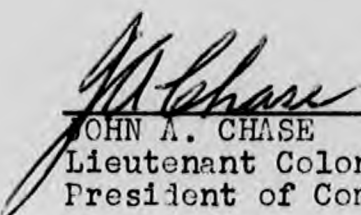
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.


JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
12 November 1946

Met, pursuant to adjournment, at 0830 hours..

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP
President and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WERLINGER, TC
CAPTAIN HARLYN W. DANEY, CAV (QM)

APPEARANCES:

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SECOND LIEUTENANT DIMITRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, CS, Chief Defense Counsel
MR. OTTO SCHULTZ, CS, Assistant Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

FILOTTO DIANALA JO)
ROGELIO CATANJAL) ILONGO (VISAYAN)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA F. O'CONNELL

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 12 November 1946, at Courtroom No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The record will show that when the Commission reconvened all the members of the Commission were present, together with the prosecution, the accused, his interpreter and the defense counsel.

FELIPE LUMACANG

a witness for the prosecution, having been previously sworn, testified further as follows through Interpreter Dianala Jo:

CROSS-EXAMINATION

MR. BLACK: The witness is reminded he is still under oath.

(Translated to the witness by Interpreter Dianala Jo.)

BY MR. SIMON:

Q Do you bear any scars or marks as a result of your beating by the Kempei Tai members?

A No more, they are all erased.

Q Have you testified in any previous cases here at Manila?

A Yes.

Q Did you testify in the case of the United States of America against Yamaguchi?

A Yes.

Q What other case?

A The case of Takeshita.

Q When you were taken to the Kempei Tai in 1944, had you been severely beaten and bruised before you were taken to the Kempei Tai?

A I was not beaten in the Kempei Tai's office in 1944. I was only beaten in the high school under Takeshita.

Q Wasn't your body bruised and scarred and you had many wounds as a result of this beating by Takeshita?

A Yes.

Q Were you able to walk when you arrived at the Kempei Tai cell in 1944, or were you confined to bed as a result of the beating you had sustained?

A I could still walk because we rode in the truck in going to the Kempei Tai.

Q Didn't you testify in the Takeshita case that you were severely beaten by Takeshita in 1944, and that you were confined to bed for three days?

A I did not say that I was put in bed, but I was imprisoned in the high school for five days and after that I was brought to the Kempei Tai's office.

Q And when you were at the Kempei Tai, didn't you have blood in your urine?

A Yes.

Q And you also had severe bruises and marks all over you when you arrived at the Kempei Tai?

A Yes.

Q And all that was a result of your beating by Sergeant Takeshita, one of Yamaguchi's men, is that true?

A Yes.

Q On what date and month did you see Mananquel at the Kempei Tai?

A In the month of April, 1944.

Q Was it in the first week of April, 1944?

A More or less in the third week of April.

Q Have you had any difficulty with your memory since the beating by Takeshita in 1944?

MR. BLACK: I object to that question. It is too vague and indefinite, and besides it is rather difficult for a witness to answer that type of question.

MR. SIMON: I will withdraw the question.

Q Have you had any headaches? Has your head bothered you since you were beaten by Takeshita in 1944?

A I have headaches, but I still retain my memory.

Q Didn't you receive a severe beating about the head, and weren't you thrown upon your head many times when you were being beaten by Sergeant Takeshita in 1944?

A It is not that. My head was beaten many times and had been severely beaten, but I still retained my memory.

Q How often does your head hurt you and ache from these beatings?

A It was not only my head that was beaten, but also all over my body, and I could still have a clear memory on those days.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the prosecution?

REDIRECT EXAMINATION

BY MR. BLACK:

Q This beating that you received by Takeshita, when was that?

A In the month of March, 1944.

Q And after this beating you were taken to the Kempei Tai at the Private Hospital, is that right?

A After five days of which I stayed there with Takeshita, we were transferred to the Private Hospital.

Q Before March, 1944, were you ever arrested by the Kempei Tai?

A Yes.

Q Were you imprisoned at the Bacolod Private Hospital?

A Yes.

Q Were you beaten?

A Yes.

Q Who beat you?

A Nakamura.

Q Who was Nakamura?

MR. SIMON: Defense is going to object to this line of questioning as improper redirect. It has all come out in the case in direct examination.

MR. BLACK: If it please the Commission, I will concede that some of it has been brought out originally, but in order to attempt to clear up any possible confusion created by defense counsel with regards to Takeshita, I would like to show the separate and distinct incidents.

COLONEL CHASE: Do I understand that you are trying to separate his testimony with regards to another incident other than shown in Specification Nos. 7 and 8?

MR. BLACK: At this particular moment, if it please the Commission, I am merely trying to bring out testimony in connection with Specification No. 14, if you will consult Specification No. 14.

COLONEL CHASE: You are trying to separate the incidents in Specification 14 from those in which he testified to in Specifications No. 7 and 8?

MR. BLACK: That is right.

COLONEL CHASE: I think under the circumstances that is proper examination.

A One of the investigators in the Kempei Tai's office.

Q Did Takeshita have anything to do with the arrest, the imprisonment, or beating?

A As far as I know, Takeshita's affairs in the high school is different than this in the Kempei Tai.

Q Now, at the time you were brought to the Badoed Hospital in March or April, 1944, do you remember anybody else beaten there?

A There were many prisoners that were beaten there who were with me and whose names I could no longer recall.

Q Without telling us the names of those whom you do not recall, do you recall any particular case?

MR. SIMON: Defense is going to object to this as improper redirect examination. I believe the incidents have now been definitely separated and this is all testimony that is nothing new. It was all brought out in the case in direct examination; no new matter is now being developed.

MR. BLACK: If it please the Commission, ordinarily I would concede to the merits of Mr. Simon, but in my anxiety the other day to expedite this witness' testimony I may have failed to bring out certain things that I had originally intended, and it is because of that that I ask the Commission's indulgence at this time.

COLONEL CHASE: My notes show that the witness testified rather clearly and distinctly when he was on the stand before with respect to the alleged beatings inflicted on Ormaneta and Mercado. If you are heading towards that, I can see no use for repetition.

MR. BLACK: That is not my intention. If the witness makes any reference ---

COLONEL CHASE: Read that question back please, reporter?

(The question was read.)

MR. BLACK: I will withdraw the last question.

Q Without telling us about the incidents in connection with Ormaneta, Mercado, Mananquel, Magbanua, or Allic, do you recall any other incidents of a beating?

A I could remember quite a lot of the beatings there, but the names of those beaten I could not remember.

COLONEL CHASE: With respect to what time, which of the two times, October, 1943, or April, 1944, is he now speaking? Will you bring that out for the President of the Commission?

Q (Continued) I am asking you in connection with April, 1944.

MR. SIMON: Defense will object to that as being incompetent, immaterial, and irrelevant and not included in any of the Specifications. Specification 14 relates to October, 1943, and there is no Specification concerning unidentified people in 1944.

MR. BLACK: There are ample Specifications in which reference is made to unascertained numbers of unknown Filipinos imprisoned and beaten.

MR. SIMON: Which Specification? Specification 14 relates to October, 1943.

MR. BLACK: Granted.

MR. SIMON: If it refers to any other Specifications, defense will object to it as being improper redirect. It is not new matter disclosed in cross-examination. I have not touched on it.

MR. BLACK: I know. I have already explained to the Commission the reason for the question.

COLONEL CHASE: I suspect that you are referring to Specification No. 6, which refers to March and April, 1944. That is Specification No. 6 as amended.

MR. BLACK: Also Specification No. 13.

COLONEL CHASE: Specification No. 13 refers to Roman Maravilla by name and to no others.

MR. BLACK: To save time and to avoid any possible objection on the part of the defense, I withdraw the last question. I have no other questions.

MR. SIMON: Defense has no further questions, sir.

COLONEL CHASE: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL GUHL:

Q Do you remember what day in October, 1943, you were arrested?

A Yes.

Q What day?

A October 13, 1943.

Q Upon that arrest where were you taken?

A In the Kempei Tai

Q Where was that?

A Before the war the place was known as the Private Hospital at Smith Street.

Q How long were you confined there?

A That date when I was arrested, on October 13, 1943, I was imprisoned there for thirteen days.

Q Were you ever transferred and confined elsewhere?

A On March 20, 1944, I was again arrested and I was imprisoned in the high school, and after five days I was transferred to the Kempei Tai's office.

Q How long were you confined after that arrest in March, 1944, when you were taken from the high school to the Bacolod Private Hospital?

A Aside from my imprisonment, which was five days in the high school, I stayed fifty-two days in the Kempei Tai's office.

A In the Kempei Tai

Q Where was that?

A Before the war the place was known as the Private Hospital at Smith Street.

Q How long were you confined there?

A That date when I was arrested, on October 13, 1943, I was imprisoned there for thirteen days.

Q Were you ever transferred and confined elsewhere?

A On March 20, 1944, I was again arrested and I was imprisoned in the high school, and after five days I was transferred to the Kempei Tai's office.

Q How long were you confined after that arrest in March, 1944, when you were taken from the high school to the Bacolod Private Hospital?

A Aside from my imprisonment, which was five days in the high school, I stayed fifty-two days in the Kempei Tai's office.

Q You mean that you were confined in a cell for those fifty-two days?

A Yes, sir.

Q You testified that you know Allie, Magbanua, and Mananquel, is that correct?

A Yes, sir.

Q You testified also that these three persons were in the same cell with you in April of 1944?

A Yes, sir.

Q Did those fifty-two days that you were confined there carry over to the period that these three persons were in the cell with you?

A Yes, sir, they were with me in the same cell.

Q You testified that Allie and Magbanua went on the patrol campaign, is that correct?

A Yes, according to the information given me by the boy who was serving the Kempei.

Q Do you know what is meant by "patrol campaign"?

A In my own understanding, a patrol campaign is to make campaigns.

Q Did you see Allie and Magbanua after they were investigated?

A Yes, sir.

Q What was their physical condition when you saw them?

A His arms, his shoulders, his back and his legs were swollen, and his clothes were torn.

Q Did they have to lie down?

A They walk around.

Q How soon after the investigation, did they go on this

patrol campaign?

A It was about one day after they were investigated.

Q Then they had recovered sufficiently from the effects of that investigation to go on that campaign?

A Not yet. Their bodies were still swollen.

Q But they could still walk?

A Yes, sir.

Q You are Felipe Lamacang?

A Yes, sir.

Q How do you spell your last name?

A L-U-M-A-C-A-N-G.

COLONEL GUHL: For the purpose of the record, Specification 14 has this man's name as "L-U-M-A-C-A-N-O."

COLONEL CHASE: Does the prosecution wish to move to correct this specification at this time?

MR. BLACK: If it please the Commission, I so move. That is a typographical error overlooked by me. The specification should read: "Felipe Lamacang." The last letter should be "g" instead of "o."

COLONEL CHASE: Any comment by the defense?

MR. SIMON: No comment, sir.

COLONEL CHASE: Notation will be made for the record that the correct spelling of the first name of the person in Specification 14 is "Felipe Lamacang."

BY COLONEL CHASE:

Q Do you know what became of Allic and Magbanua after they were taken on the patrol campaign?

MR. SIMON: If it please the Commission, that question assumes facts not in evidence. The only evidence that they were taken on a patrol campaign is a hearsay report that he had from some latrine orderly. There has been no other evidence concerning it. That question assumes that is a fact and it is not.

COLONEL CHASE: For the purpose of obtaining additional information, it is necessary, Mr. Simon, I ask the question. The witness will answer it.

A All I know was when after I came out from the men's toilet that orderly boy informed me that they were taken on a patrol campaign.

COLONEL CHASE: Any further questions by the Commission?

(No response.)

COLONEL CHASE: Any questions by prosecution or defense?

MR. BLACK: I have one question, sir.

RECROSS -- EXAMINATION

BY MR. BLACK:

Q Did Mananquel ever move around after he was brought back to the cell?

A No more. He was just lying down, and he could hardly move, and he used to shout.

Q He never went on any campaigns, did he?

A He could no longer walk.

MR. BLACK: I have no other questions.

COLONEL CHASE: Has the defense any further questions?

MR. SIMON: No further questions, sir.

COLONEL CHASE: There being no further questions, the witness will be excused.

(Witness excused.)

MR. BLACK: At this time, with the permission of the Commission and on notice to the defense, prosecution moves to incorporate into the record of these proceedings former testimony of Roman Maravilla. That is in support of Specification No. 13, from Volume II, Pages 149 through 157, in the case of the United States of America versus Jyunji Sasaki.

COLONEL CHASE: Any remarks by the defense?

MR. SIMON: No comment, sir.

COLONEL CHASE: Is it your intention to read this into the record or to introduce it as a numbered exhibit?

MR. BLACK: I would rather incorporate that into the record. If it please the Commission, the reporter can copy it right into the record and dispense with my reading it, unless the law member will direct me to read it into the record.

COLONEL CHASE: It actually can only be included into the record either by reading it in the court or introduction into the record as an exhibit. It is immaterial to the law member which way you wish to enter it.

MR. BLACK: I will move to incorporate it into the record.

COLONEL CHASE: If you have an extract, there is no objection to the stenographer having a copy and making

any changes.

MR. BLACK: (Reading)

"ROMAN MARAVILLA

a witness for the prosecution being duly sworn, testified
as follows through Interpreters Casanovas and Villareal:

"DIRECT EXAMINATION

"BY LIEUTENANT FINLEY:

"Q What is your name?

"A Roman Maravilla.

"Q How old are you?

"A Seventy-six years.

"Q What is your address.

"A I am seventy-six years and eight months.

"Q What is your address?

"A Here, or where do you mean?

"Q I mean his home address.

"A Rizal Street, Iloilo.

"Q Province?

"A Province of Iloilo.

"Q What is your occupation? (Page 150)

"A A farmer.

"Q What is your religion?

"A Protestant.

"Q Were you ever apprehended by Sergeant Sasaki in
the Bacolod Kempei Tai?

"A Yes, sir.

"Q What was the date?

"A It was in the month of April, 1944.

"Q Where were you apprehended by Sergeant Sasaki?

"A It was in the house of Mrs. Fortunata Cachapero. Calle Burgos, Bacolod.

"Q Do you see Sergeant Sasaki who apprehended you in this courtroom?

"A Yes, sir.

"Q Will you point him out?

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"A There. (Pointing.)

"LIEUTENANT FINLEY: May the record show that the accused was designated.

"COLONEL PARMELEE: The record will so indicate.

"Q Why did Sergeant Sasaki tell you that he was apprehending you?

"A Because, according to him, that there was a denouncement against me that I was aiding the guerrillas, I possessed scrip money, and arms, and my son is a captain of the guerrilla.

"Q Did you possess scrip money?

"A Japanese money and Filipino currency.

"Q Did you possess firearms? (Page 151)

"A No, sir.

"Q Was your son a guerrilla?

"A Yes, sir.

"Q After Sergeant Sasaki apprehended you, what occurred to you?

"A I was taken to a private hospital in Bacolod and there they took me to the operating room and I was alone with the Sergeant Sasaki and an interpreter.

"Q What was the name of that interpreter?

"A Uehara.

"Q What was the Bacolod Private Hospital then known as?

"A It was known as "Private Hospital."

"Q For what purpose was it used at that time?

"A It was a private hospital and there were being treated the inhabitants of Bacolod.

"LIEUTENANT FINLEY: The witness does not understand my question.

"(To Interpreter Villareal): What I am trying to get is at the time he was taken there what was it being used for at that time? I do not want to know what it has been used for in the days gone by. Do you understand the

"-150 -

question? Apparently, the witness does not understand the question because he knows what was there and I know that he knows what was there; but at the time we are speaking of there was no hospital there, so let's get the question to him.

"Q Now, at the time that you were taken to the Bacolod Private Hospital, for what purpose was that hospital then being used?

"A That hospital was being used for the treatment of sick inhabitants of Bacolod.

"Q Where was the headquarters of the Japanese Military Police in Negros at that time?

"A In that very hospital was the headquarters of the Japanese Kempei Tai located.

"Q Were you investigated at the hospital by Sergeant Sasaki?

"A Yes, sir. When we went near the operating room I was told that there was a denouncement against me for possession of firearms, scrip money, and that I was helping the guerrillas and that I had a son who was a captain of the guerrillas. I answered them that I did not possess the firearms, scrip money, nor helped the guerrillas, and that my son was not a captain in the guerrillas but was a mere lieutenant and that he was there by his own volition. I was also told by the interpreter that the person who denounced me was in prison and that if I did not surrender my firearms I would be killed. Then I told them that I did not possess the firearms I was accused of possessing, and then Sergeant Sasaki took a piece of rattan of one inch width and three feet long from underneath the table and held me by the neck and started beating me. (Page 153) When I told them that I did not have the firearm I was accused of possessing, Sergeant Sasaki slapped me on

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the face and beat me.

"Q How many times did he slap you on the face?

"A Once.

"Q Did he slap you hard or did he slap you easy?

"A The slap was strong and so were the beatings.

"Q How many times, or if you do not know the number, approximately how many times did he hit you with the rattan cane?

"A The first time I was hit five times; then three times.

"Q What else, if anything, did Sergeant Sasaki do to you?

"A After punishing me they imprisoned me. While I was imprisoned Sergeant Sasaki and his interpreter went to the house of Mrs. Cachupero to make a search. Not having been able to find anything in the house and also unable to open the steel safe that was in the house, they sent for me from the prison. Not being able to open the safe, I was ordered to open it and once it was opened they took all the contents. They examined everything and also the Japanese and Philippine money I had there, and still they did not find what they were searching for."

MR. BLACK: At this time, may I interrupt for a moment?

(Short conference off the record between prosecution and defense.)

MR. SIMON: In the off-record discussion, prosecution and defense stipulated and agreed to omit from the extract the argument between counsels in the previous case.

MR. BLACK: And we will, as stipulated, continue about one-third down on Page 154.

"LIEUTENANT FINLEY (To interpreter):
Limit the question to this point: in what court was this complaint filed?

COLONEL CHASE: Just a moment while I check back to see what the question was. What was the last question?

(Reporter read last question.)

COLONEL CHASE: Apparently you left out a little too much, and did not connect the two parts.

MR. BLACK: There is one question there I really should have included where it said "They found a copy of the complaint of Mr. Antero Mijaras." Question: "What was this complaint?"

COLONEL CHASE: Suppose, in order to avoid any misunderstanding, you go back to Page 152 and begin reading with the question "Continue with your story," answer "They found a copy of the complaint of Mr. Antero Mijaras," question, "What was this complaint?" and continue:

"LIEUTENANT FINLEY (To interpreter): Limit the question to this point: in what court was this complaint filed?"

MR. BLACK: The answer is: "The complaint was filed in the city of Iloilo.

"Q Were you a party to that complaint? (Page 156)

"A I am the accused.

"Q What was the name of the other party?

"A Antero Mijaras.

"Q Was Antero Mijaras the name of the person that Sergeant Sasaki told you and made the charges against you?

"A The interpreter and Sergeant Sasaki was the one who told me that it was Antero Mijaras who made the accusation against me.

"Q Did Sergeant Sasaki read this complaint?

"A He read part of it and then stopped and spoke to his interpreter in Japanese, after that he left.

"Q After Sergeant Sasaki spoke to his interpreter in Japanese what did the interpreter say to you?

"A (No response.)

"Q After the interpreter spoke to you in Japanese what did the interpreter say to you? (Page 156)

"After the interpreter -- pardon me.

"After Sergeant Sasaki spoke to the interpreter in Japanese what did the interpreter say to you?

"A The interpreter told me that the party who denounced me was Antero Mijaras.

"Q What else did he tell you?

"A That is all; he followed Sasaki out.

"Q Did Sergeant Sasaki say anything?

"A Sergeant Sasaki did not tell me or ask me anything else.

"Q Before you were slapped by Sergeant Sasaki, beaten with the rattan cane by Sergeant Sasaki, had you been given any trial?

(Page 157)

"A They merely told me that there was that denouncement against me for the possession of firearms, scrip money, and helping the guerrillas, and that I had a son in the guerrillas.

"Q Were you given any trial before you were beaten and slapped is the question.

"A There was no trial.

"LIEUTENANT FINLEY: No further questions."

MR. BLACK: For the record, Mr. Simon, there was no cross-examination of this witness.

COLONEL CHASE: The Commission at this time will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: At this time, with permission of the Commission and on notice to the defense, the prosecution moves to incorporate into the record of these proceedings testimony of the accused, Shuji Kawamori,--or rather an extract of his testimony.

MR. SCHULTZ: Just a minute, Mr. Black.

May it please the Commission, at this time, under the procedure of law followed, I would deem the introduction of any testimony on the part of the defendant irrelevant and immaterial at this time, because under our laws the defendant is free from any and all incriminating testimony, unless he, himself, takes the stand, and then only can the prosecution use any testimony to show the difference or to show the incrimination. Until that is done, I feel that that testimony is inadmissible at this time, and I so move that it be not allowed at this time.

COLONEL CHASE: The directive of December 5 is clear and definite to the effect that the Commission shall receive any testimony given before any other Commission. This provision has no exception for testimony given by an accused, and it is so phrased that in the opinion of the law member it is mandatory upon Commissions to receive any testimony which may have been given in any hearing before any other Commission. For that reason, motion of the defense is denied.

MR. BLACK: "EXTRACT FROM U.S.A. vs TOMIZO HIRAKAWA AND SHIRO KAJIYAMA VOL. IV, P. 287"

Page 287

"Q State your name.

"A Shuji Kawamori.

"Q State whether or not you were a member of the Japanese Army?

"A Yes, sir.

"Q State what your rank was?

"A First Lieutenant.

"Q Were you a member of the Kempei Tai in Bacolod?

"A Yes, I was with the Kempei Tai in Bacolod.

"Q In what capacity did you serve in the Kempei Tai?

"A I was unit commander.

"Q State the period that you were commanding officer of the Kempei Tai in Bacolod?

"A From the latter part of October, 1942, till about June, 1944.

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"Q Do you know Sgt. HIRAKAWA?

"A I know him.

"Q Did he serve in your command during the time you were with Bacolod Kempei Tai?

"A Yes, he was my subordinate.

"Q Do you know Sgt. Major MORIKAWA?

"A I know him."

MR. BLACK: Prosecution now moves to incorporate into the record of these proceedings extract from the testimony of the Accused, Shuji Kawamori, in the case of the United States of America versus Jyunji Sasaki, Volume II, Page 56.

COLONEL CHASE: Is there any objection by the defense?

MR. SCHULTZ: Same objection as on the other case just for the record.

COLONEL CHASE: For the same reason?

MR. SCHULTZ: For the same reason.

COLONEL CHASE: The objection is denied for the reason stated under the extract from the Hirakawa and Kajiyama case.

MR. BLACK: (Reading)

"Q What is your name?

"A Shuji Kawamori.

"Q What was your rank in the Japanese Army?

"A First Lieutenant.

"Q During the time that you were in the Japanese Army, did you ever serve on Negros Island?

"A Until the end of June, 1944.

"Q When did you come to Negros Island?

"A End of October, 1942.

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"Q Then you came to Negros Island at the end of October, 1942 and stayed until June, 1944.

"A Yes, until the middle of June, 1944.

"Q What organization did you command in Negros Island?

"A The Kempei Tai in Bacolod.

"Q Did you have as member of your organization Jyunji SASAKI?

"A Yes.

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"Q What was his duty in your organization?

"A He was in charge of the intelligence work.

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"Q When a guerrilla suspect was brought into the Kompei Tai, what were your instructions regarding him to your men? What were your instructions to your men regarding that guerrilla suspect?

"A I told my men to treat the guerrilla suspects kindly because any harsh treatment would be a cause of increase in the number of guerrillas, and I instructed my men to point out to the guerrillas what mistakes the guerrillas are making and treat them kindly and then send them home; and I had notice pasted on the bulletins it instructs our men to treat the guerrillas kindly.

"Q Were your instructions the same with regard to civilians who were not guerrilla suspects?

"A The policy toward the civilians was the same; To treat them kindly.

"Q Where was your next higher headquarters located?

"A In Manila.

"Q Where was the immediately next higher headquarters? Where did you receive your orders?

"A Until the end of 1943, I was under the KUWANO Heidan in Cebu.

"Q When you were no longer under the KUWANO HEIDAN in Cebu, did you receive your orders directly from Manila?

"A Yes.

Page 60 Continued:

"Q Were you authorized by your superiors in Manila to hold trials for guerrilla suspects or civilians who were not guerrilla suspects in Bacolod?

"A No, I have not received orders.

"Q Did you have authority to try in Bacolod guerrilla suspects or civilians who were not guerrilla suspects?

"A I had no authority.

"Q Where were trials of guerrilla suspects and civilians who were not guerrilla suspects held?

"A The investigations were done by the Kempei Tai, but my policy was to send the guerrilla suspects or the guerrillas home after the investigation, even though they may have been found to be malcontents. And I instructed them on their mistakes and asked them for their cooperation toward the Japanese Army. And in the YAMAGUCHI Butai there was a facility for training the Filipinos to become good people. And in this instance, when they finished their instruction, we held graduation and we had prominent Filipino officials, and so forth, to come to the graduation. And we even gave them presents, to the ones who gave outstanding ability. And to those who applied for employment, we sent them to the various Japanese firms established in the locality.

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"Q Well, let us ask him; were there trials held in any place in the Philippines of guerrilla suspects or civilians who were not guerrilla suspects?

"A In Manila there were trials.

"Q Did you ever send any guerrilla suspects or civilians to Manila for trial?

"A Yes, there were times when I sent them."

COLONEL CHASE: To clarify possible doubt in overruling the objection of the defense, it was the intention of the law member to state clearly that the extract as presented would be admitted in evidence and read into the record. It is so ordered.

MR. BLACK: At this time the prosecution moves to incorporate into the record of these proceedings extract from the testimony of the United States of America versus Jyunji Sasaki, Vol. 1, page 27. This is the testimony of Masakazu Yamaguchi.

MR. SIMON: Defense will object to the introduction of the extract of this testimony as it is self-serving testimony by Yamaguchi in an action that bears no relationship to this particular case now being tried before this Commission.

MR. BLACK: If it please the Commission, what materiality or relevancy this bears to this case will be disclosed by the contents of this extract and not by what the defense counsel says. Moreover, the defense counsel during and throughout the trial had attempted to inject the name of Yamaguchi wherever possible and without the slightest provocation. The prosecution would readily have called Yamaguchi to testify in person, however, he is now on trial himself before another Commission and it is for that reason that the prosecution does as it has stated.

COLONEL CHASE: It will be admitted into evidence by reading into the record for such probative value as it may have.

MR. BLACK: Reading from page 27.

"Q What is your name?

"A Masakazu Yamaguchi."

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"Q What were the dates of your command on Negros Island?

"A From January, 1943 until August, 1944, I took command of the entire troops on Negros Island and subsequently I took charge of the security duties under the KONO Heiden.

"Q During the period from January, 1943 until August, 1944, were you the ranking officer on Negros Island?

"A Yes.

"Q During the period January, 1943 until August, 1944, was the Kempei Tai of Negros under your command?

"A No.

"Q Do you know Jyunji SASAKI, Sgt. Major, Japanese Army?

"A Yes.

"Q Could you give members of the Kempei Tai orders if they were not under your command?"

page 29

"A I could not order them because they were not under my command.

"Q Where was the commanding officer of the Kempei Tai located? The commanding officer--immediate superior officer--of the command on Negros Occidental, where was it located?

"A At first it was 1st Lt. KAWAMORI and he was replaced by 1st Lt. UNAI, but I do not know the date of the change.

"Q Where did the Kempei Tai at Bacolod, Negros Occidental receive its orders?

"A The commander of the Cebu Kempei Tai."

page 32

"Q To the best of your knowledge, was Sgt. SASAKI ever in command of the Kempei Tai in Bacolod, Negros?

"A He was ordered by the unit commander but he never commanded the Kempei Tai.

"Q Then, to be more specific, would there have been circumstances under which you as an officer of the Imperial Japanese Army would have given orders directly to SASAKI?

"A No."

Before the prosecution rests its case. I should like to make one remark. The prosecution had hoped to have one more witness available this morning to testify or at least documentary or affidavit evidence to offer. However, at this time the prosecution has received no word regarding the availability of this witness and has received no other evidence to offer. In the event that this witness or other forms of evidence of his should become available while the defense is in its case, then, at that time the prosecution will ask for leave to present the witness or other evidence in connection with this case.

COLON L CHASE: Specifically what is the name of the witness?

MR. BLACK: The name of the witness is Enrique Torres.

COLONEL CHASE: In case this witness becomes available the Commission will at that time discuss with counsel the admissibility of the evidence. It is possible that he might be called as a Commission witness under the

obligation of the Commission to inquire fully and as thoroughly as possible in all matters brought before it.

MR. BLACK: Thank you, sir.

The prosecution rests.

MR. SIMON: Defense has no opening statement. Defense for its first bit of evidence would like to read from a document bearing the classification of "Confidential" issued by the General Headquarters, Southwest Pacific Area, Military Intelligence Section, General Staff, Guerrilla Resistance Movements in the Philippines.

COLONEL CHASE: Any remarks by the prosecution?

MR. BLACK: No, sir.

COLONEL CHASE: You may proceed.

MR. SIMON: This document is dated 31 March 1945 and the fore-word states that:

"The data presented form an accurate picture, with the knowledge available at the time of preparation. In general, this information has proven to be substantially correct --"

MR. BLACK: If it please the Commission, may I interrupt you, Mr. Simon? What is the defense's point and purpose at this time in reading either directly from it or in summarizing the contents of this paper? What is its intention in connection with this document?

MR. SIMON: It is the defense's intention to acquaint the Commission with the guerrilla activities, the tactical situation as existed on Negros Island when these alleged incidents occurred. Also there is specific reference in these documents to names of known guerrilla leaders.

One of the names corresponds identically with one of the names listed in the specifications. One of the names refers to a person who has been referred to in oral testimony.

MR. BLACK: I am not concerned with the contents or with the names. All I asked Mr. Simon is to inform me what he intends to do with it -- to incorporate it, read it into the record or what? The Commission has no copies to follow, I have no copy to follow and as far as I am concerned I don't like to make it difficult for the defense. I like to cooperate with them.

COLONEL CHASE: I think it will be entirely proper for him to continue to read into the record the extract as read by him and it will be available for study if desired by the Commission or the prosecution.

MR. BLACK: Mr. Simon, are you going to read the whole thing?

MR. SIMON: Just extracts to give the names of the guerrilla leaders and who they are.

COLONEL CHASE: You may proceed on that basis and introduce this into evidence by reading into the record.

MR. SIMON: The reproduction of this entire document was by command of General MacArthur; it is certified by R.K. Sutherland, Lieutenant General, U.S.A., Chief of Staff; made official by C.A. Willoughby, Major General, G.S.C., Asst. Chief of Staff, G-2, who has authenticated it forward.

COLONEL CHASE: You are reading from an official copy thereof?

MR. SIMON: Yes, sir, this is from Chapter VIII, "The Guerrilla Resistance Movement on Negros", 10 December 1944, Section I. General Background:

"The growth of the guerrilla organization on Negros is the story of the birth of small units, struggle for island command and the final emergence of Lt. Col. Salvador ABCIDE as the accepted and recognized commander. The struggle over the island command was bitter and prolonged. It was not settled completely until late 1943 but, since, the quarrels have been almost forgotten.

"The terrain of Negros has not lent itself well to maintaining a coherent organization. The island is a fertile horseshoe plain around a rough interior and south coast of mountains. The Japanese occupied this plain and the guerrillas were driven to the interior into three separate areas, north, central (east and west slopes) and the south. Supplies were poor and communications between areas were disrupted almost entirely by mountains and absence of radios."

Section II. History of Guerrilla Units: This is the ABCIDE units.

"Maj. (then Capt.) Enrique TORRES, one of the best fighting commanders on Negros, organized another unit centered in the vicinity of Binalbagan under ABCIDE. Much USAFFE equipment was saved and the unit, with 600 rifles, was the best armed of the original guerrilla groups, and the largest. Many of the officers and men came from the plantations in the vicinity and the unit never wanted supplies. When the guerrillas were forced back into the

hills, many of these families evacuated with them but maintained contact with supply sources in the lowlands. The first engagement of the unit with the Japanese took place at Buenavista in early August 1942."

On page 70 the name Mercado is spelled the same as the Mercado listed in Specification No. 15, the first name unknown in that specification.

"Maj. Hermenegildo MERCADO commanded guerrilla activities in the area Guihulngan and northwards in Negros Oriental in May or June 1942 and was thus one of the first guerrilla leaders on Negros. He joined forces with GADOR's command about September 1942 but withdrew with his men the next month over some unknown dispute and thereafter was at odds with GADOR. MERCADO remained independent of other Negros commands until late 1943, though he is believed to have had some association with guerrillas in northern Negros Occidental."

"MERCADO is about 30 years old, was classmate of Col. PERALTA (Panay) in the Infantry School and was for a time instructor in Guihulngan."

On page 78 of this document there is a paragraph concerning Torres:

"Former civilian in Negros Occidental, organized a guerrilla group in the vicinity of Binalbagan in mid-1942 and joined ABCEDE's command. He is one of the best fighting commanders in Negros and when ABCEDE moved his headquarters to the south coast, TORRES and his unit were moved along to protect the District Headquarters and security areas. In this capacity TORRES and his men engaged in

several sharp engagements with Japanese patrols and were instrumental in preserving the safety of supplies, papers and personnel on several occasions; is completely reliable."

That is all we have from this document, sir. This could be placed in the hands of the President of the Commission if they feel that they should like to read any other portions.

COLONEL CHASE: Does the prosecution care to look it over to see if there is anything they want to read into the record?

MR. BLACK: Rather than do that, if it please the Commission, the prosecution will wait and let the defense proceed and during the noon recess I should like to look at it. Then if there is anything the prosecution would like to call the attention of the Commission to I will do so then.

(To Mr. Simon) May the record show that the Torres referred to in this instrument and as read by you is Enrique Torres.

COLONEL CHASE: I think that was clear from Mr. Simon's remarks.

MR. SIMON: Defense would like to invite the Commission's attention to the specifications in the case of the United States of America versus Akira Takeshita. The specifications and charges against Lieutenant Kawamori have been duplicated in the case of Akira Takeshita. I invite the Commission's attention to Specification 2 in the Takeshita case which is found on page 11 of Volume I of that case. Specification 7 of the Kawamori case refers

to the mistreatment and torture of Domingo Mananquel and to his killing. Specification 8 refers to the killing, mistreatment, and torture of Estanislao Magbanua and Anacleto Allie.

Specification 2 in the Takeshita case is as follows:
(reading)

"2. In that Akira TAKESHITA, a member of the Imperial Japanese Army, did, at or near the town of Talisay, Province of Occidental Negros, Philippines, on or about the 19th day of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully mistreat and torture an unascertained number of Filipino civilians, including, among others, Evangelista ALGARME, Anacleto ALLIC, Igmidio APOHEN, Wenceslao BIRONDO, Bienvenido BUENAVENTURA, Julian BUENAVENTURA, Jovita CASIPLE, Melchor CELIA, Pablo CERVANTES, Manuel CHUA, Conrado CLAVACELLAS, Diosdado GARCIA, Romeo JUNCO, Ernesto LOCSON, Eleuterio de LUAO, Estanislao MAGBRANUA, Domingo MANANQUEL, Paulino MESINA, Loreto LOPEZ, Leonardo OCERA, Pedro PANELA, Emiliano PEROJA, Nicolas RAFA, Rodolfo ROBLES, Felix SAPITOLA, Rafael TOLEDO, Domingo TRIBILES, Serafin VINGSON, and Felipe YAP, in violation of the laws of war."

The Commission's attention is also invited to the fact that in the Takeshita case it is developed that Sergeant Takeshita was a member of Colonel Yamaguchi's battalion and he was not a Kempei Tai although Takeshita wore civilian clothes and appeared to be a Secret Service man.

COLONEL CHASE: May I check this with you? I caught as you read the name Domingo Mananquel which appears

to be identical with the name in Specification 7 and Anacleto Allie which appears to be identical with one of the names in Specification 8 in this case. I did not catch the name of Estanislao Magbanua.

MR. SIMON: We have the name of Estanislao Magbranua. There is an extra letter inserted but defense believes that is a clerical error.

MR. BLACK: The prosecution will concede and stipulate that the names mentioned and that are similar to the names in the Kawamori case in Specifications 7 and 8 are the same.

COLONEL CHASE: The record will show the stipulation.

MR. SIMON: Defense would likewise invite the Commission's attention to the specifications in the case of the United States of America versus Masakazu Yamaguchi.

Specification 15 in that case concerns the incidents at Talisay on the 19th of April 1944 and it alleges names that appear in Specification No. 2 of the Takeshita case but has omitted the persons in Specifications Nos. 7 and 8 of the Kawamori case. Defense offers this for the purpose of showing that the prosecution itself, the United States Government, had charged Colonel Yamaguchi with being responsible for men under his command of mistreating and torturing the same people that Kawamori and Takeshita were previously charged with.

MR. BLACK: If it please the Commission, while the defense counsel is making and drawing conclusions implying this is duplication of charges and specifications,

based on the same incident, at the same time and at the same place, the prosecution merely wishes to call the attention of the Commission that that does not ipso facto state what the defense is trying to imply but merely that it is very possible and that it is a fact that these people may have been beaten, tortured and otherwise abused at one time or another and 3 or 4 days later taken to another place and gone over again.

MR. SIMON: Specification 15 of the United States of America versus Masakazu Yamaguchi reads:

"15. In that Masakazu Yamaguchi, a member of the Imperial Japanese Army, did, at the town of Talisay, Province of Occidental Negros, Philippines, on or about the 19th day of April, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, wrongfully and unlawfully permit soldiers under his command brutally to mistreat and torture Evangelista ALGARME, Igmidio APOHEN, Wenceslao BIRONDO, Bienvenido BUENAVENTURA, Julian BUENAVENTURA, Jovito CASAPLE, Melchor CELIA, Pablo CERVANTES, Conrado CLAVECELLAS, Diosdado GARCIA, Romeo JUNCO, Ernesto LOCSIN, Loreto LOPEZ, Wenceslao MAGBANUA --"

COLONEL CHASE: That appears to be definitely different. The first name of the person mentioned in Specification 8 is Estanislao.

MR. SIMON: Sir, defense at this time will make a check to see whether or not an amendment has been made in the Yamaguchi case to correct the name. All others coincide. The last name is spelled M-a-g-b-a-n-u-a.

MR. SIMON: (Cont'g): "Paulino MESINA, Leonardo OCERA, Emiliano PEROJA, Pablo PEROJA, Nicolas RAFA, Rodolfo ROBLES, Felix SAPITOLA, Domingo TRIBULES, Serafin WINGSON, and Felipe YAP, unarmed Filipino civilians, in violation of the laws of war."

Defense will call as its first witness Pascual Cazcarro.

PASCUAL CAZCARRO

a witness for the defense, was resworn and testified further as follows:

COLONEL CHASE: It is noted that Pascual Cazcarro was previously called by the defense at the request of the Commission for the purpose of identifying certain points in an airplane photograph of Bacolod in connection with the examination of another witness and was previously sworn at that time.

FURTHER DIRECT EXAMINATION

BY MR. SCHULTZ:

Q What is your name?

A Pascual Cazcarro.

Q Where do you live?

A 44 Libertad Street.

Q How long have you lived in Bacolod City?

A Since 1925.

Q Were you living in Bacolod City proper during the Japanese occupation?

A Yes, sir.

Q Did you stay there during the entire occupation?

A Yes, sir.

Q What is your nationality?

A Filipino, sir.

Q By that do you mean you are a Filipino citizen?

A Yes, sir.

Q How old are you?

A I am 50 years old.

Q What was your occupation during the time the Japanese occupied Negros Island?

A Since May 20, 1942 when the Japanese landed up to the end of June 1943 I was Chief of the Fire Department, Bacolod City.

Q Before the Japanese landed in Negros what was your occupation?

A I was court interpreter of the Court of First Instance of Occidental Negros.

Q Do you recall the date or approximate date of your appointment as the Chief of the Fire Department?

A It was around the end of the month of June 1942.

Q By whom were you asked to become the Chief of the Fire Department?

A Really nobody asked us but as soon as the Japanese landed they called every one of us who used to be fire volunteers before the invasion and they landed on Thursday, May 20, 1942 and on Friday morning we were all taken to the Kempei Tai Headquarters which was before that the Philippine Constabulary Headquarters.

Q Where was that located?

A That was located on Rizal, Bacolod City. That day the Chief of the Kempei Tai was Morikawa's son and he gave

us badges to pin on our left arms purporting to be our job. or our appointment as firemen of Bacolod City.

Q And that, in order to give a clear picture to the Commission, was done by whom? Who actually appointed you if you remember?

A That day, I can not say whether it was an appointment or whether they designated us as firemen. Later on Mayor Yuli, who was mayor, was reinstated by the Kempel Tai in Bacolod. He was forced to get back to the job. Mayor Yuli was the one who appointed us.

Q In other words, the Mayor of the City of Bacolod was the one who appointed you?

A Yes.

COLONEL CHASE: The Commission will take a short recess.

(Short recess.)

COLONEL CHASE: The Commission is in session.

MR. SCHULTZ: I would like to remind the witness he is still under oath.

Q When you told me a little while ago, witness, that you were a Filipino, did you mean that you were born here?

A Yes, sir.

Q What is your descendency, please?

A My mother is full-blooded Spanish. My father is a first degree cousin of my mother. My grandmother, on the part of my father, was full Filipino. I was born in the town of La Carlota, Occidental.

Q Do you recall or do you know who the commanding officer of the Kempoi Tai was at the time the Japanese landed?

A It was Morikawa.

Q Do you know his rank?

A Not during that time, I did not know his rank, but I saw that he had something like a Spanish flag with metal stars. That is a red stripe, - a yellow stripe in the middle and a red stripe below.

Q What color did you say the stars on his sleeves were? Silver or gold?

A White silver metal stars. Small ones.

Q Do you know how long Morikawa was in command of the Bacolod Kempoi Tai?

A I think until he was replaced by Kawamori.

Q Do you know about when that was?

A I am not very sure, but I think it was between October and November.

Q Of what year?

A In 1942.

Q Did you, in the course of imo, become acquainted with Kawamori?

A Yes, sir.

Q How did you become acquainted with Kawamori?

A The Fire Department, during my incumbency, was under the control of the Kempei Tai. All of our appointments came from the City Hall, but we had to submit weekly reports to the Kempei Tai, copies of which were sent also to the City Mayor.

Q In that way you were present at times in the presence of Kawamori?

A Yes, sir.

Q Did you, of your own knowledge or through hearsay, know of any tortures or killings of Filipino civilians by the Kempei Tai during Kawamori's command?

A Well, inside Bacolod City I have heard of certain tortures but not of killings.

Q Did you, with your own eyes, see the defendant, Kawamori, beat or torture any Filipino or suspected guerrilla?

A No, sir.

MR. SCHULTZ: For the Commission's information, I will now proceed to cover questions pertaining to the Specification, numbering them, so that the first number will be Specification No. 1.

Q Do you know an Epifanio Baja?

A Yes, sir, I know him.

Q Do you recall his arrest and his detention?

A I only recall one day I met him with some beard and found out that he was just recently released by the Kempei Tai.

Q Did his physical appearance at the time you met him in any way show ill treatment?

A I could not detect it, sir. I did not talk with him. I just saw him passing by.

Q How long after his release did you see him, if you know?

A Probably it was very recently because he did not have a shave yet.

Q Do you remember the date?

A No, sir.

Q Do you remember the year?

A I think it was in 1943. I am not sure of it. I think that was the year.

Q To help refresh your memory, did you see him on or about January of 1943?

A I cannot tell you whether it was January or what month it was.

MR. SCHULTZ: Now going into Specification No. 2.

-- Strike that -- I understand Specification No. 2 has been deleted.

MR. BLACK: That is right. Specifications Numbers 2, 9, and 10 are out.

MR. SCHULTZ: Going into Specification No. 3.

Q Do you know a Cresencio Federoz?

A Yes, sir.

Q Do you know anything of his arrest?

A I only found out that he had been detained by the Kempei Tai when he was brought here to Manila as a War Crimes witness at the same time I was brought to Manila.

Q Did you have any knowledge of Cresencio Federoz as being an informer for the Japanese?

A The rumors around Bacolod were that he was connected with the Kempei Tai. That is only rumor around, I am not sure about it.

Q In other words, it was rumored by various civilians?

MR. BLACK: If you please, let the witness explain his answer rather than the defense counsel.

MR. SCHULTZ: All right, I will withdraw that question.

Q Would you explain to the Commission here as to how you were lead to believe that Cresencio Federoz was an informer for the Japanese?

A Well sometimes you happened to pass by a bunch of people talking and you heard something, but of course I was conscious enough of how things were and I would stop and later continue my walk. Then is when I heard about Federoz being connected with the Kempei Tai. I was not sure, I did not find it out in the investigation.

MR. SCHULTZ: Going to Specification No. 4 now.

Q Do you know an Emilio Parreno?

A Yes, sir, he is an attorney.

Q Do you remember his arrest?

A I remember that he was arrested. I used to stop in the house of his brother whose clinic was in front of the Kempei Tai headquarters in Bacolod. His brother is a doctor.

Q Do you remember about what time that was?

A I think it was also in 1942, I cannot recall the month.

Q Would it be February 1944?

A I am not sure. It is too far away already. So many things happened.

Q Did you know the reason for his arrest?

A Why he, himself, told me that he was suspected as being a USAFFE soldier or informer because he used to live far away from Bacolod, -- about fourteen kilometers. He used to come down to Bacolod. One time when he came down they arrested him.

Q Did you see him immediately after that detention?

A No, sir, later on. Then when he informed me where he was at that time.

Q At that time did he show any signs of ill treatment?

A No, sir, but he told me he was manhandled.

Q Told you he was manhandled?

A Yes, sir, but he did not tell me who manhandled him or anything.

MR. SCHULTZ: Now going to Specification No. 6.

Q Do you know Lope Lodesma?

A Yes, sir, he is the actual Sanitary Health Inspector at Bacolod today.

Q Do you recall his arrest or the time of his arrest?

A No, sir, I never knew whether he had ever been arrested.

Q You don't know of anything pertaining to his arrest or detention?

A Absolutely not.

Q Do you know a Jose Villasor?

A Yes, sir.

Q Do you recall approximately the time of his arrest?

A No, sir.

Q Do you recall in your memory of any time subsequent or rather -- strike that -- did you know he was arrested?

A Yes, sir.

Q After his release, did you notice any ill treatment on his body in any form?

A I did not see anything. I only overheard him, and prior to his arrest have known him as a sickly man, - stomach trouble. He could not eat any hard thing or he would feel pain in his stomach. He, himself, told me after being detained in the Kempei Tai, - I don't know why because he was not fed anything, - his stomach relaxed. Then when he came out he was in good health.

Q In other words his detention by the Kempei Tai made a better man out of him, is that right?

A Well, if he was telling the truth and the way I saw him eating and drinking, it helped him very much.

MR. SCHULTZ: Now going to Specification No. 12.

Q Do you know a William Kanaan?

A Yes, sir.

Q Do you know of his arrest?

A No, sir.

Q Did you ever speak to him at any time concerning the Kempei Tai?

A Yes, sir, about ten days after my release.

Q Ten days after your release?

A Yes, sir.

Q On what date was that, -- date of your release?

A The 29th of August, about the end of August.

Q The 29th of August?

A Yes, sir.

Q At that time did you see William Kanaan?

A Yes, sir, at his place. He had a restaurant on one side of the street and had a first-class bar across the street.

Q At that time did you talk to him concerning your arrest?

A Yes, sir, that morning while drinking coffee I inquired of two or three fellows if they had been arrested by the Kempei Tai. Some of them admitted having been arrested. I told them that I was just recently released and how Sasaki treated me. In my conversation William Kanaan told me I was telling a very, very big story, meaning I was telling more than what had happened. Later on, when I came back to Negros in the last day of May 1945, I met William -- that is William Kanaan. The first thing he told me was, "Do you recall the day you were telling me that Sasaki mistreated you?" I told him, "I did." Well, he said, "You are a bigger liar. You did not tell half the truth." That is what he told me.

Q During your conversation with William Kanaan did he ever tell you that he was maltreated or ill treated by the Kempei Tai at that time?

A Yes, sir. I know he was detained in the month of November. I think when I was away from Negros, Mr. William Kanaan was still detained.

A Yes, sir.

Q On what date was that, -- date of your release?

A The 29th of August, about the end of August.

Q The 29th of August?

A Yes, sir.

Q At that time did you see William Kanaan?

A Yes, sir, at his place. He had a restaurant on one side of the street and had a first-class bar across the street.

Q At that time did you talk to him concerning your arrest?

A Yes, sir, that morning while drinking coffee I inquired of two or three fellows if they had been arrested by the Kempei Tai. Some of them admitted having been arrested. I told them that I was just recently released and how Sasaki treated me. In my conversation William Kanaan told me I was telling a very, very big story, meaning I was telling more than what had happened. Later on, when I came back to Negros in the last day of May 1945, I met William -- that is William Kanaan. The first thing he told me was, "Do you recall the day you were telling me that Sasaki mistreated you?" I told him, "I did." Well, he said, "You are a bigger liar. You did not tell half the truth." That is what he told me.

Q During your conversation with William Kanaan did he ever tell you that he was maltreated or ill treated by the Kempei Tai at that time?

A Yes, sir. I know he was detained in the month of November. I think when I was away from Negros, Mr. William Kanaan was still detained.

A Yes, sir.

Q On what date was that, -- date of your release?

A The 29th of August, about the end of August.

Q The 29th of August?

A Yes, sir.

Q At that time did you see William Kanaan?

A Yes, sir, at his place. He had a restaurant on one side of the street and had a first-class bar across the street.

Q At that time did you talk to him concerning your arrest?

A Yes, sir, that morning while drinking coffee I inquired of two or three fellows if they had been arrested by the Kempei Tai. Some of them admitted having been arrested. I told them that I was just recently released and how Sasaki treated me. In my conversation William Kanaan told me I was telling a very, very big story, meaning I was telling more than what had happened. Later on, when I came back to Negros in the last day of May 1945, I met William -- that is William Kanaan. The first thing he told me was, "Do you recall the day you were telling me that Sasaki mistreated you?" I told him, "I did." Well, he said, "You are a bigger liar. You did not tell half the truth." That is what he told me.

Q During your conversation with William Kanaan did he ever tell you that he was maltreated or ill treated by the Kempei Tai at that time?

A Yes, sir. I know he was detained in the month of November. I think when I was away from Negros, Mr. William Kanaan was still detained.

Q Did you see him at any time after that to observe his condition -- physical condition?

A After his release, yes, sir.

Q From your observation were there any bruises which would show he was beaten?

A No, sir, I did not see any.

MR. SCHULTZ: Going to Specification No. 13.

Q Do you know a Roman Maravilla?

A Yes, sir, he is an old man.

Q Do you know whether or not he was detained?

A I only learned it on the boat coming to Manila as a War Crimes witness that he had been detained.

Q Did you see him after his detention to observe his physical condition?

A At the time I saw him he had to bring his son to attend him as he is quite old already.

Q On your trip here to Manila to come as a witness was he in fairly good condition? Could he walk?

A Yes, sir, he could walk. He brought his son to accompany him.

MR. SCHULTZ: That is all. You may cross-examine.

FURTHER CROSS-EXAMINATION

BY MR. BLACK:

Q Were you ever arrested by the Kempei Tai?

A Yes, sir.

Q Why were you arrested by the Kempei Tai?

A I did not know what charges they had against me when they arrested me.

Q Did they tell you when they arrested you what the charges were?

A No, sir.

Q Were you in any way mistreated or abused while you were in prison?

A Very much, sir.

Q Do you know of any other people, in addition to the ones you testified on direct examination, who were arrested and mistreated?

A Well, one of them is Amilio Esmeralda who was detained much ahead of my time. He told me that he was even furnished with a bed, mosquito net and that he was given three meals a day.

MR. SIMON: The defense believes this line of testimony ought to be cleared up. We are not concerned with it, even though it is favorable. We are not concerned with this last testimony, naming people who are not included in the Specifications.

MR. BLACK: I did not ask him of any particular names. I merely asked him if he knew of any other people.

MR. SIMON: If it concerns anybody not mentioned in a Specification, defense moves to strike it from the record.

MR. BLACK: I don't know if it does until I question him.

COLONEL CHASE: Defense examination of this witness was apparently directed toward showing good treatment by the Kempei Tai of at least some of the persons whose names are mentioned in these charges during the time they were under the Kempei Tai arrest.

It appears to the law member to be entirely proper for the prosecution, in cross-examination, to bring out any information relating to the general subject of treatment of Kempai Tai detainees. Examination may continue for the present.

Q Confining ourselves to the period between the latter part of October 1942 until about June of 1944, you lived in Bacolod City, is that right?

A Yes, sir.

Q Were many Filipinos arrested by the Kempai Tai?

A I can not tell you that, sir.

Q Were there any arrested?

A There were.

Q Were any of them mistreated?

A I can not say, sir.

Q Do you know how they were treated?

A Neither, sir.

Q You do not know how they were treated?

A No, sir.

Q Were they arrested and investigated for the purposes of improving their health?

MR. SCHULTZ: I object to that, if the Commission please. That is going too far away. We are willing to leave the prosecutor go as far as possible to secure any definite information.

MR. BLACK: I will withdraw the last question.

Q Do you know why they were arrested and questioned?

A I do not know, sir.

Q Have you any idea?

A Neither, sir.

Q When you were arrested and investigated, did you ever find out why?

A After five beatings then I was very weak. Then I tried to find out for myself what they are trying to give me as my treatment.

Q Do you mean to say you were able to ascertain what they suspected you of?

A Yes, sir.

Q What did you discover?

A Well, I discovered they were suspecting me of being the man broadcasting the news in the market place, that the Americans were coming back; that in case the Americans would come back, Colonel Yamaguchi would order the killing of every Filipino.

Q Were you arrested by the Yamaguchi battalion?

A No, sir.

Q You were arrested and mistreated by the Kempei Tai?

A Yes, sir.

Q What they accused you of, was that true or was it not true?

A It was not true.

Q The first house where they kept the Kempei Tai prisoners was De La Pena House, is that correct?

A Yes, sir.

Q The second was the Bacolod Hospital?

A Yes, sir.

Q How far is the Bacolod High School from Bacolod Private Hospital, about?

A About 700 yards.

Q 700 yards. Do you know the place called the Provincial Jail in Bacolod?

A Yes, sir.

Q What was that used for?

A That was used in the beginning as the storehouse, and later on as a compound of prisoners.

Q Prisoners from where?

A Prisoners from the Kempei Tai and prisoners sentenced by the civil court -- sentenced by the civil court.

Q Do you mean Filipino prisoners from the Kempei Tai?

A Yes, sir, and also prisoners who were sentenced by the municipal court for thievery and such things like that.

Q In your direct examination did you say that William Kanaan was never arrested or mistreated?

A I did say that meaning that before I was arrested I never heard or learned that William Kanaan was arrested. He was arrested in the month of November just after I was released, but I don't know if he was arrested before that time.

Q So that you do not know if he was ever arrested or mistreated of your own knowledge?

A Of my own knowledge, no. Later he informed me.

Q He informed you about his arrest some time in November 1944, is that what you mean?

A No, sir, he was not the one who informed me. I found it out from the town people talking about his arrest.

Q Do you remember the other members of the Kempai Tai in Bacolod -- their names?

A No, sir, not the last ones, not after I resigned from the Kempai Tai -- after I resigned from the Fire Department I very seldom happened to go to the Kempai Tai Headquarters.

Q Do you know Sasaki?

A I know him very well.

Q Do you know Morikawa?

A Yes, sir.

Q Do you know Yamane?

A Yes, he was a civilian used as an interpreter.

Q Do you know Uehara?

A Yes, sir, he was the interpreter who helped Sasaki beat me.

Q Did you know Ando San?

A He was a small Japanese who made money from the relatives of civilians that were detained by the Kempai Tai.

MR. BLACK: I have no other questions.

MR. SIMON: No further questions, sir.

COLONEL CHASE: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL CHASE:

Q With reference to the man, the small Japanese you said that made money from the relatives of persons detained by the Kempai Tai, how did he make this money?

A Well, in my own case, after I was released by Lieutenant Unai; he was the interpreter used by Lieutenant Unai and

after translating to me that behavior that I should have, he told me to go to his private house and he would instruct me how to obey in order not to be arrested again by the Kempei Tai. He told me if I could bring something to his house that it would be much better. Of course I had no job. I had a big family and it was hard for me to bring anything to him. So one day I met him and he told me, "Why do you not come to my house?" I told him, "I have been to your house four or five times but every time I go there you were busy already." He informed me he liked ice cream and coffee or cake. Then he asked me if I had any money because he wanted money. I heard of some other fellows doing the same thing. By the way, to clear the Commission on the question propounded to me, I was not arrested by the Kempei Tai. It was two Filipinos who arrested me in a gambling house and brought me to the Kempei Tai Headquarters. Then Sasaki brought me upstairs and gave me the beating, but no Kempei Tai arrested me.

COLONEL CHASE: Any further questions?

MR. SIMON: Defense has no further questions, sir.

MR. BLACK: I would like to ask one or two.

FURTHER RECROSS-EXAMINATION

BY MR. BLACK:

Q Did they beat you because they arrested you in the gambling house?

A No, sir, not for the gambling.

Q Did you know Mihara of the Kempei Tai?

A No, sir.

Q Did you know Nakamura?

A Nakamura I could not recall. At first when the Kempai Tai came to Negros the one who was G-2 was Nakamura, but when I was arrested Nakamura was not there any more.

Q You were arrested in August of 1944?

A No, July 20, 1944.

Q Did you know Ogasawara?

A No, sir.

MR. BLACK: I have no further questions, sir.

MR. SIMON: No further questions, sir.

COLONEL CHASE: There being no further questions the witness may be excused.

(Witness excused)

MR. SIMON: Sir, if the Commission does not desire this witness any longer, it is requested he be permitted to go back to Negros. He has a large family and he has now been away from his family for five to six days already.

COLONEL CHASE: Does any member of the Commission know of any reason why Mr. Cazarro should be recalled?

(No response)

COLONEL CHASE: Very well, he may be excused.

MR. SIMON: At this time the defense rests.

COLONEL CHASE: When will defense and prosecution be ready to proceed with their closing arguments? Perhaps before we settle that point it might be well to recess for a few minutes and give Mr. Black an opportunity to telephone and see if there is any further information about this witness he mentioned.

MR. BLACK: If it please the Commission I have a note delivered to me from my office advising me as follows: This is by the Administration Section of the Legal Section and advising me that they checked and called Camp Murphy, spoke with the Signal Operation Officer there, a Captain Francis. At the time of this message, 10 o'clock, they have not received a reply or a radio since Saturday 9 November, but Captain Francis is sending a tracer on the original message and my office will call him this afternoon to see if anything has come in. I should like to check again with my office and see if they have any further news. If they don't have I will act accordingly.

COLONEL CHASE: The Commission will take a short recess.

(Short recess)

COLONEL CHASE: The Commission is in session.

MR. BLACK: If it please the Commission, may I make a suggestion. It is 11:15 now. Suppose, under the circumstances, the Commission recesses until one o'clock so that we may make the necessary inquiries and ascertain if this man is available.

MR. SIMON: Will the prosecution be ready to argue at 1300?

MR. BLACK: Prosecution is ready. Will the defense be ready?

MR. SIMON: Defense is ready to proceed right now.

MR. BLACK: All right, the prosecution will be ready at 1300.

COLONEL CHASE: We will take a recess as you suggested and give you an opportunity to make inquiry as to the present status of this witness. I wish you would be prepared at 1300 to inform us if you consider the presence of this witness highly important or of relative small importance so that the Commission can decide at that time whether it should go ahead into closing arguments or to give you a further adjournment to see whether or not this man can be located.

MR. BLACK: The prosecution will be ready at that time.

COLONEL CHASE: The Commission will recess until 1300 this afternoon.

(The Commission recessed at 1115 hours to reconvene at 1300 hours, 12 November 1946.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: Will the record show that all the members of the Commission, the defense counsel, the accused with his personal interpreter, and the prosecution were present at the time the Commission reconvened.

The prosecution has been unable to obtain any additional information regarding the availability of Enrique L. Torres, as a witness for the prosecution.

At this time the prosecution has nothing further to offer and rests.

COLONEL CHASE: Under the circumstances, the Commission will not recess waiting for the arrival of this witness and suggests to the prosecution to save needless travel; that he be released by radio in case he has not already started.

Is the defense ready to begin its argument?

CLOSING ARGUMENT FOR THE DEFENSE

MR. SCHULTZ: May it please this Commission, at the outset I would like to state that in courts military, whether pertaining to military matters or civilian matters, it is always the rule and has been to the present date that the burden of proof of each and every Specification is entirely upon the prosecution, and that the prosecution must prove beyond a reasonable doubt that each and every Specification with which the accused is charged must be proven, and it is not incumbent upon the defense to offer testimony of whatsoever nature to prove his innocence.

With that in mind I will proceed with the testimony of Justiniano Quillanguin on Specifications 1, 3 and 11. If this honorable Commission recalls, this witness was a cook, and I might characterize him as the eager witness, and he testified first that the Bacolod Kempei Tai was first located in the De La Pena Building and then transferred to the Bacolod Hospital after 1942, that is, October, 1942, to July, 1944. He also testified, briefly, the summation of it is that a Marikawa, Socho and Lieutenant Unai were in command at times unknown. In other words, the testimony was not brought out as to specific times, the witness was not giving any dates, together with unknown command of the accused. That is all covered in testimony in Volume I and in the upper part of page 25. He also testified that he was absent from August the first to August the thirty-first, 1944. In his testimony he says the arrests were made first in the early part of 1943, and then subsequently he changed it to the early part of 1944. This Commission should remember this. That is covered on the middle of page 31 and perhaps in the other parts of that page.

Now, he also testified with regards to the investigator, Sasaki, and Yamane, the interpreter, and then he goes to the interpreter, Uehara.

On page 37 the questions were put: "Who beat Gabriel Espino?" The answer, "Yamanoue." "How do you know?" Answer, "He was the one investigating him, sir." On page 38, "Answer, Antipas Baliguas was imprisoned together with Mr. Baja until the early part of 1943 and I don't remember whether he was beaten by investigators of the Japanese Military Police." Now, all throughout this testimony, if this Commission will recall, this witness was

prejudiced. He was biased, and even to the point on page 39, where he used the word "beaten", even when he didn't know about the incidents. Question, "Did you see Lieutenant Kawamori beat any of the people that you testified about?" Answer, "I have not seen him beating." Question, "Did you ever see him present when these people were beaten?" Answer, "Yes, sir, because he visits the cell of the Japanese Military Police often." That, gentlemen, is just prejudicial conclusion. Question, "Did Lieutenant Kawamori ever beat you or mistreat you personally in any way?" Answer, "No, sir, he didn't beat me." That is covered on the bottom of page 39.

On cross-examination on page 40 in the center: Question, "How many times were you actually in that investigation room from October. - 42 until June of 1944?" Answer, "Several times, sir." The following questions after that were evasive and highly prejudicial without any foundation that should be recognized in any military court or anywhere else.

On the top of page 43, the witness admits that the Yamaguchi Battalion was also stationed at Bacolod. On page 50, he admits beatings done by Yamaguchi. On page 51, the witness admits observations of short moments only, never by concrete time being specified, or any concrete evidence of any nature that could be considered in any court. Particularly, I would like to bring out the fact that on the bottom of page 51 the witness uses the word "sentences" and was questioned by the Commission and also by others, and his answer is, "I meant the suspects who were working with the underground movements as the guerrilla resistance during the Japanese occupation." Now, further explanation was given through Interpreter Dianala Jo:

"What I mean by sentences is after the investigation there is a determination of how long will they be released." By that I am inclined to believe from the military experience that I have had and from the civil experience that I have had, that this witness was talking of what we term "blotter arrests." Now, blotter arrests are somewhat as follows, for the information of the Commission; they perhaps already know but I will repeat: Blotter arrests are where a suspected enemy of any nature, and perhaps in this case a suspected guerrilla, or a suspected violator of exchanging money, or a suspected violator of transacting between the guerrillas and civilians in the supply of food or money, or in whatever nature, that was then harmful to the then occupying Japanese Army; who by directives or otherwise set up laws in which they delegated their powers to the various officers and they in turn would question the witness, and the witness after being questioned, if he had any evidence of any of their violations which were then in order, would without any holding of any particular court sentence this prisoner or person, or whoever it was, to an indefinite time by merely putting on the blotter the name, the date, and the circumstances under which he was placed, calling that a blotter arrest.

Now, the remaining questioning by the Commission, comprising pages 64, 65, and the top half of 66, show that the accused, Kawamori, was not present at any of the investigations and nowhere else in all the testimony is any relevant, concrete testimony showing the actual command of Kawamori, or anywhere through any testimony has the prosecution proven by relevant, admissible, legal testimony, or legal evidence, the perpetration

of the accusations set up in Specifications 1, 3, and 11, as against the accused, Shuji Kawamori. Thus, in my humble opinion, I deem that the Commission, under the rules of military courts, must disregard the testimony offered by the witness, Justiniano Quillinguin, and properly find the accused free of the charges of those Specifications from the testimony submitted by the prosecution through the witness, Justiniano Quillinguin.

Going into the defense summation of the next witness, Roberto Felix Ramos, also covering Specification No. 1 and particularly covered on pages 71, 72, 73, and 74, briefly discloses that the witness was arrested on January the 26th at 0300, 1943, by Japanese officers, Nakamura and Sasaki, who is now deceased. Three other officers and the accused, he further testifies, were the sole factors in his mistreatment, and that those mistreatments were for a period of two days only, and that he served a total of 94 days. Nowhere in other testimony is it shown that he was ever beaten after those two days.

On page 75 particularly, I might enlighten the Commission as to this question, "Were you placed in a cell all by yourself?" Answer, "I was placed in a cell with other guerrilla people." Now, this self volunteered answer, honorable Commission, certainly was a response from his mind that he implicated inadvertently that he was a guerrilla at the time of his arrest, and I bring that to your attention for that reason. Again, on page 77, regarding the questioning by Nakamura, the testimony shows that he had dealings with the guerrillas, and the summation of that entire testimony pertaining to the accused, Lieutenant Kawamori, is that Kawamori was present only outside

of the cell. That is covered on the bottom of page 79 and the top of page 80.

Also important in this matter to show that others were in command at the time of this arrest, on page 84, his answer, I know there are more than 100 soldiers and officers were present at the time of the arrest, and many were beaten by soldiers and officers other than the Kempei Tai.

On page 96, question, "Do you consider seven o'clock that evening as the afternoon you talked to Yamaguchi?" The testimony shows the presence of Colonel Yamaguchi. Throughout that testimony, honorable Commission, there were higher officers, higher in command that had the final word of what was taking place at that time. The third prosecution witness was not present and that was offered in regards to Specifications 5, 7, and 8, by partially reading in the testimony by our able prosecutor, Mr. Black, here, certain portions of the transcripts of previous testimony of Epifanio Baja, and in this I have noted that there was no evidence of direct testimony of any kind involving directly the accused, Shuji Kawamori.

The fourth prosecution witness, Moises Alipala, was in support of Specification 15. The testimony briefly showed that all the investigation beatings were by Sasaki and Uehara on November the 7th and 8th of 1942. Also in that testimony it is particularly brought out, gentlemen, that the witness was accused of selling dried fish and food to guerrillas. The witness, of course, did not directly testify to selling it but he evaded it, or rather got around it, by admitting that he sold food to anybody. He admits only to mistreatments. He does not in any direct way involve the defendant, Shuji Kawamori. It is also brought out on cross-examination of this

witness that at no time did this witness, Moises Alipala, lay any complaints of mistreatment to either the Philippine Constabulary or the Japanese officers who were present at the time at the arrest and subsequently thereto.

He also further testified that he saw Sasaki strike one Jose Garcia only twice. Moises Alipala also could not recognize the defendant, Shuji Kawamori, because of his haircut. However, later you will recall after a little discussion here he testified that Kawamori was pointed out to him on that day by the prosecutor, Mr. Black.

The fifth prosecution witness, Manuel Gomez, also covering Specification No. 15, admits doing business with Moises Alipala selling food and dried fish. In his testimony, gentlemen, he also says that his mistreatment was by Sasaki and Uehara. There is some testimony in there that he promised to go through with a delivery of food to the guerrillas on November 7, 1942. He also testified as to pointing out spots on the map as to the location of the Philippine guerrillas. He was released by the Japanese on condition to act as a spy and report conditions to the Japanese.

This prosecution witness, Manuel Gomez, while covering Specification 15, there was a questionable incident cleared by stipulation by the Commission, defense counsel, and prosecution, which you will recall with regard to a fishing gun which resembled a bow and arrow or harpoon. At first one would be led to believe that the accused, Shuji Kawamori, was guilty of the mistreatment of the witness, and then subsequently the Commission absolved the defendant, Shuji Kawamori, on the record from any premeditated or wilful

intention to cause injury to the witness.

The sixth prosecution witness, Cresencio Federez, testified with regards to Specifications 4, 5, and 11. Cresencio Federez was the barrio delegate who was appointed by Jose Santiago, Jr., at that time the President of the Philippine Mountain Government. Guerrillas were arrested by Naka and Uehara on January 20, 1944, and the testimony throughout shows mistreatments by Naka and that he remained at Bacoled for a period of five months. I will not go into further details of that. I believe my able counsel, Mr. Simon, will cover particularly the Specifications pertaining to deaths and tortures.

The next witness on my list here is a Carmen Caballero, a widow, 36 years of age, and she also testified in support of Specification 5, and I believe Mr. Simon will cover that.

The next prosecution witness, Leopoldo Anoché, was a policeman with the Philippine Constabulary and worked at the Kempei Tai in some unknown quality or quantity. He recognized and testified to the mistreatment of Emilio B. Parreno of which this honorable Commission has a copy, and to which I would like the Commission to make reference as Prosecution's Exhibit No. 6. Mr. Parreno states that he was an attorney-at-law among other things and that during the Japanese occupation there was little need for attorneys, and people refrained from going to court. Question, "Were you ever arrested by the Japanese?" Answer, "I have been arrested for six times by the Japanese since they landed in Negros, and each time I was investigated. They suspected me of exchanging guerrilla money with Japanese money." He denies being a guerrilla and further states that they were suspecting him but they were

not able to get evidence that he was exchanging guerrilla notes for Japanese money. I will not read to the Commission but I will call to the Commission's attention, particularly to the second page, in which he gives a detailed description of activities which took place between himself and a Chinese mestizo named Vicente Yee. Vicente Yee wanted him to give a note to Diychiu. The entirety of that, Prosecution's Exhibit No. 6, would further prove the contention of the defense that these witnesses were brought in in a customary manner and investigated because the Kempei Tai or any other branch of the army that was present on these occasions would have the power of blotter arrests and sentences for commission of crimes against the then government, which was the Japanese Government. I will not take any more time than necessary, but the testimony throughout, gentlemen of the Commission, covering Specifications 1, 3, 4, 6, 11, 12, 13, 14, and 15, was of a similar nature, and we are well aware of acts of a Kempei Tai or an M. P. of our own. The honorable Commission, being officers of this United States Army, are well acquainted that we too perhaps, in an investigation of enemies during a time of war do not serve them tea and crumpets but sometimes have to use a little force in order to obtain the necessary information to protect the very lives of ourselves and our constituents, composed of enlisted men as well as officers. You, as members of this United States Army, also as United States citizens, know well that under the ideologies of the American Government that we being very favorable, even perhaps reservedly against some of the things that we don't like to express, have given this defendant a right of trial, and we

not able to get evidence that he was exchanging guerrilla notes for Japanese money. I will not read to the Commission but I will call to the Commission's attention, particularly to the second page, in which he gives a detailed description of activities which took place between himself and a Chinese mestizo named Vicente Yee. Vicente Yee wanted him to give a note to Diychiu. The entirety of that, Prosecution's Exhibit No. 6, would further prove the contention of the defense that these witnesses were brought in in a customary manner and investigated because the Kempei Tai or any other branch of the army that was present on these occasions would have the power of blotter arrests and sentences for commission of crimes against the then government, which was the Japanese Government. I will not take any more time than necessary, but the testimony throughout, gentlemen of the Commission, covering Specifications 1, 3, 4, 6, 11, 12, 13, 14, and 15, was of a similar nature, and we are well aware of acts of a Kempei Tai or an M. P. of our own. The honorable Commission, being officers of this United States Army, are well acquainted that we too perhaps, in an investigation of enemies during a time of war do not serve them tea and crumpets but sometimes have to use a little force in order to obtain the necessary information to protect the very lives of ourselves and our constituents, composed of enlisted men as well as officers. You, as members of this United States Army, also as United States citizens, know well that under the ideologies of the American Government that we being very favorable, even perhaps reservedly against some of the things that we don't like to express, have given this defendant a right of trial, and we

being fair, should follow the laws as set up and from that gentlemen, this defendant should be proven guilty by competent evidence, by competent testimony. In this case, reverting back again, the only testimony was hearsay; my brother's cousin's uncle's aunt's niece gave me the information, or I heard it in an assemblance among the populace that these things took place. Nowhere in particular was there any definite testimony in all of these Specifications, gentlemen, that directly involved the accused, Shuji Kawamori, and thus, as fair Americans, as good officers, as honorable members of this Commission, I ask you to favor this defendant from this testimony and acquit him under those Specifications where the testimony does not directly involve him.

Thank you for your kind attention.

MR. SIMON: I want to thank the members of the Commission for their attention throughout the case and for their kindness and consideration in sometimes avoiding this legal bickering that Mr. Black and I have sometimes indulged in during this trial. I want to compliment Mr. Black on his presentation of his case and I also want to thank my co-partner, Mr. Schultz, for his excellent aid in the preparation and presentation of this case.

Specification 5 in this action alleged that the accused did, at or near Barrio Talotog in March, 1944, permit his soldiers to mistreat, torture and kill Vicente Torres. The prosecution introduced evidence to show that a boy known as Vicente Torres and described by Cresencio Federez as wearing a patched khaki shirt with short sleeves, four feet, ten inches tall, was about twenty years old, and was taken by the Kempei Tai men, from the Kempei Tai headquarters to the Bacolod High School. There they were joined by the Yamaguchi Battalion. They set off on this expedition to go with two unidentified Filipinos to Barrio Sum-ag by truck. At Barrio Sum-ag the entire group detrucked and the entire group marched toward Talotog. Near Talotog the group halted and Vicente Torres was led away from the road. The five Japanese with him returned shortly, wiping something off their bayonets. Also Federez claims to have seen Kawamori wiping off his sword on his trousers. The point on the road where they stopped was placed anywhere from one and one-half kilometers to one-half kilometer from a nearby creek. That is the only

testimony produced relative to the alleged killing of Vicente Torres. Mrs. Carmen Caballero gave a little more description of this lad by saying that he had gold teeth. She didn't know how many. She said he had reddish hair, lighter than mine. When she saw him last, he had on a blue faded shirt, no undershirt. She also claims that Vicente Torres was dead. She heard it from some D.I. in Kabankalan, who heard it from some DJ's at Bacolod. Gosh knows where they heard it from.

The prosecution realizes that this evidence is completely inadequate to sustain the burden of proof of the killing of Vicente Torres. There is no proof introduced that anyone saw a bayonet plunged into the body of Torres or that anyone saw a sword being swung and his head falling off. Nobody saw a mortal blow struck at Vicente Torres. Nobody saw the body of Vicente Torres. The prosecution tried to supply evidence as to the location of a body in Prosecution's Exhibit No. 4, a statement by Depra, and Prosecution's Exhibit No. 5, Namo's statement. The substance of the affidavit is that Depra saw a body by the side of the creek with his legs touching the water. He also said his hands were not tied behind his back. One inference, Gentlemen, from that statement is that his hands were tied, that the body's hands were tied but they were not tied behind his back. If the hands of that body were not tied at all, all that the statement would show is that the hands were unbound or that no comments were made. The statement that his

hands were tied behind his back leads me to suspect that somebody from WCID put words in somebody else's mouth. The defense previously invited the Commission's attention to the similarity of the statements and the seemingly coincidental remarks that the words were identical in both affidavits. Also, on this body, the body had on a new blue shirt with long sleeves and a red, new undershirt. Nobody, as yet, has put those items of apparel on Vicente Torres when he was last seen alive or when he was seen in the school house. They also stated that the hair of this body was dark but not black, also that his skull had a gold tooth in it. There is no indication in the affidavit as to whose body this was, no statement that it belonged to Torres or anybody; no statement that it had ever been identified. It is well to note that the body had three bayonet wounds on it. There was no proof that there was any other type of wounds on the body, saber wounds, decapitation, nothing but three bayonet wounds. I invite the Commission to consider three important points which point conclusively that the body discovered by Namo and Depra had no relationship to Specification 5. Firstly, the geographical distance, the point where Namo and Depra found that body in the creek with its feet touching the water and the fact that this body was placed by the evidence no closer than one and a half to one-half kilometer from the nearest creek shows the impossibility of that body having any relationship to this case. You have to recall that Torres and

the Japanese were so close to the road, the point of the road where they stopped that Federez could hear the groan of Torres, and you don't hear groans at a half kilometer. Secondly, the important point is that the details and the description of the body of what the boy was wearing, his physical features, his color of hair and number of gold teeth, do not tie in with the description of Vicente Torres. Thirdly, and a very important point, is the wounds found on that body, three bayonet wounds. That does not compare with Federez's story that he saw five soldiers wiping off their bayonets and that he saw Kawamori wiping off his sword.

I also invite the Commission's attention to the bias and prejudice of the Filipino witnesses. Carmen Caballero stated, "I have a deep, dying hatred for the Japanese." Other witnesses put it in a less loquacious form, "Of course, I hate them," they say. We had one witness who admitted he would sign anything. He didn't even know what was in the statement when he apparently signed it, but he signed the statement anyway. He admitted signing it because someone told him, "If you sign that, it will hurt a Japanese." He can't even read English, he says.

It is well to note that Prosecution's Exhibits 4 and 5 try to account for the present location of that body. Why hasn't somebody produced the body? They put in that affidavit a cute little statement saying, "All these three bodies were later dug up by the dogs and dragged away," and that identical wording appears in both affidavits. Apparently the War Crimes Investigating Detachment tried to locate the scene of this alleged incident; tried to bring in skeletal remains or pictures of graves or something to show somebody was killed and they couldn't do it. There were no bodies, so we have **got** to correct that deficiency. The bodies were dug up and the bones scattered by the dogs. Yet Namo and Depre could describe in detail everything about the bodies, that is after the dogs scattered the bones, but they couldn't find them for the investigating officer but they could still remember what he wore and how many gold teeth he had and everything about him. Another thing, gentlemen, I understand that during the Japanese occupation

dogs were not too plentiful because dogs provide meat and meat is food when you are hungry. However, the significant thing still remains that the prosecution has never yet produced other witnesses to locate the remains of Vicente Torres or to identify those remains. Defense also would comment on the fact that Torres was an active guerrilla and probably assisted his father, the famous Captain -- later became Major -- Enrique Torres. Isn't it strange that Enrique Torres, the father of this boy, made no effort to locate the body when he came to Bacolod one month after it was liberated? I imagine that was one of his prime concerns, as it is with anybody, after the war, to find out where his family is. No, his only comment was to tell it to the War Crimes Investigating Detachment.

MR. BLACK: If it please the Commission, I don't like the idea of interrupting defense counsel in his summation. However I cannot sit by idly and listen to statements that have no basis except in the imagination of the defense. The Commission will recall the testimony and there is no necessity for the defense counsel to introduce something new and novel that he concocted out of his imagination.

MR. SIMON: Defense has a right to comment on all evidence and failure to produce certain evidence. In fact the witness, Federez, said he talked to Enrique Torres when Enrique Torres came to Bacolod and his only comment, when told his son was dead, was "Tell it to the WCID." He made no effort to go out and look for a body. He just said, "Tell it to them."

Specification 7 alleges that Kawamori unlawfully permitted the soldiers to mistreat and torture Domingo Mananquel, thereby causing his death. Specification 8 is closely related, arising out of the same Talisay expedition in which it states he unlawfully permitted them to kill Magbanua and Allic. The evidence on this Specification was supplied by Felipe Yap. Felipe Yap struck me as a most unintelligent person. He has no memory and after two hours of testimony on the stand, when he was being pressed, he started to lose his vision and his eyes were fluttering. He said, "My eyes have gone bad on me," and he started to forget things he should have seen. Obviously he is below normal mentality which makes it impossible to lend any credence to his story. He contradicted himself time and time and couldn't respond intelligently to a question. His story on Mananquel's death is that the Japanese came in with a stethoscope, and checked and saw Mananquel was dead. The body was left in the cell and that is where Felipe Yap last saw it.

I have been trying cases here since April of 1946, and that is the first time the Japanese were ever accused of using a stethoscope to determine that a victim was dead. The other cases show a cruder method; kick him in the head or if he never moves kick him with a toe. I have never heard of a stethoscope being used by the Japanese on a victim to see if he was dead. This witness knew he had to establish this man was dead and just attached a stethoscope to a handy Japanese. Yap also testified that he saw Allic and Magbanua alive when he left that cell to be taken to the provincial jail.

Nicolas Rafa was the next witness. His mentality was just about equal to the mentality of Yap. He also stated Magbanua and Allie were both alive when he was transferred to the provincial jail. He also admitted that both of these men, Allie and Magbanua, were mistreated and beaten at the time of their arrest in Talisay, not mistreated by the Kempei Tai but mistreated by troops. He also alleges in regard to Mananquel that Mananquel was not moving. He did not say that he was dead. He said he was not moving, and that Mananquel was taken from the cell at 1000 that morning, returned at 1500 that afternoon, half an hour later Yap and Mananquel were transferred from this cell, and no other comment was made. There was no comment whether Mananquel was dead or alive at this time. He makes no mention of the body being wrapped with a mat or a stethoscope being used. Also it is well to note that Yap and Rafa had difficulty in identifying the place to which they were taken. Rafa, with a little help, erected a large wooden sign over the Bacolod Hospital. He put Visayan writing on it so that he could identify the place. Then he put English writing on it and a spotlight on it, and he was unique in his testimony concerning how he identified that particular building. Rafa also had a bad habit of forgetting what he had told the prosecutor before he got on the stand, and the prosecutor and Rafa went around and around on what Rafa just finished testifying. Apparently they never did get together. He forgot a certain event about testifying in the Takahashi case, denying it when I asked him about it. He denied it probably because I am the defense counsel. He reversed himself three minutes later when

Mr. Black asked him. Rafe said that he arrived at the Kempel headquarters about 1900 and it was dark already. He said that the sign said "Private Hospital." He said he could read the sign. However, when asked, "Didn't it say 'Bacolod Private Hospital'?" He said, "Yes, Bacolod Private Hospital." We had a great time erecting signs around the Bacolod Private Hospital. The defense enjoyed embellishing it with different figures, putting signs, spotlights and whatnot on those signs.

Then we have the testimony of Felipe Lumacang. This man is a professional witness who has been in three or four cases around here, and apparently he handles himself well on the stand by now. He said he was put in the same cell and he said, "I saw Kawamori himself come into the cell and tap the body with a cane. Then the body was wrapped in a mat and carried outside the cell." Yap and Rafa said it was left in the cell, and this time the body moves. It is strange throughout this entire case the prosecution mounted this body on wheels so that they could roll it in and out of the cell with each witness, as fast as the witness desired it to move. We have two witnesses take it out of the cell, one witness wrapped it in a mat in the cell, two witnesses walk out and don't know what happened to the body.

Also, Felipe Lumacang said he didn't know if Mananquel was dead or alive. He only said he made no movement. Also, Lumacang testified, he is the only one testified this, that Mananquel was screaming, "Kill me, Kill us all!" in that cell, and in that same cell was Yap and Rafa and not a word from them about this incident. We also find Lumacang wandering around the jail house to the latrine. On his way he runs into the latrine orderly. That is where he learns Magbenua and Allie were out on a patrol campaign, whatever that is. I believe there is a story behind why Felipe Lumacang states he has headaches, and his head sometimes bothers him, but he said, "My memory is good," because he knows he has to have a good memory. Lumacang was severely beaten by Sergeant Takeshita before being turned over to the Kempei Tai. His mind was probably temporarily affected

by the severity of the beatings, and the things that happened shortly after that are, he said, probably refreshed in his mind by conversations with fellow Filipinos. The only witness who claims to have seen Magbanua's body was this woman who saw the body on the bank of a creek near the hacienda. She doesn't give any details of any wounds, bruises, marks, or how the body got there, or what caused the death of Magbanua. She just said, "I saw the body, and I took off." She was afraid to say anything else.

Specifications 7 and 8 also arise from a large operation conducted by the Yamaguchi Battalion in Talisay on the 19th of April, 1944. The town was surrounded, all the people rounded up at the plaza and those people had a so-called campaign questioning right ~~then and there by the combat troops~~ and they were mistreated out there right after they were captured to weed out the undesirable ones who had to go back to Bacolod and decide who would be left at Talisay. The evidence shows clearly from the size and scope of the operation that Yamaguchi was fully responsible for those operations and those prisoners were all returned to his headquarters at the high school and not to the Kempei Tai. If the Commission finds that all these people from Talisay, and that would be the three included in Specifications 7 and 8, were returned to the Bacolod High School and there confined, they must bring in a finding of not guilty of those Specifications because it would be the Yamaguchi troops and not the Kempei Tai troops that are involved.

Also, the Commission must bring in a finding of "not guilty" on Specifications 5, 7, and 8, because the prosecution has failed to prove corpus delicti. That is a dead body and that is something that can't be hidden, and generally not dragged away by the dogs. It is well to note in this entire case here, there are only nine alleged incidents involving mistreatment. Those are, Specifications 1, 3, 4, 6, 11, 12, 13, 14, and 15. These cover a period of twenty-one months, that is from October 1942, to July 1944. It is well to note that the persons who were allegedly mistreated--who are they? Black market food dealers, buy-and-sell merchants trading guerrilla money for "Mickey Mouse" money, persons who supplied food and information to the guerrillas, and persons directly connected with guerrilla activities. They are not non-combatant civilians. I believe one thing War Crimes' work can do is to definitely establish a policy of no protection for any civilian that mixes in the business of war. War is a business that involves uniforms, organized troops, and that old doctrine of the *franc tireur* that a civilian who mixes in this war is not entitled to any protection. He makes it harder for other civilians. If he wants to fight, put him in uniform, organize him, give him a gun and let him fight, but a great deal of suffering inflicted on innocent civilians was caused by people like these. It was difficult to separate the sheep from the goats. It was difficult technically to do that, and any well-run, organized police force knows that.

They only had nine incidents in twenty-one months. Nine incidents in twenty-one months would be considered as an excellent record, far better than the Military Police in Manila have been able to do. It is not to our credit, but I recall now a certain Camp Litchfield, staffed and run by a colonel, adequately manned with trained officers, in which many more than nine incidents occurred, and much more serious ones in a shorter time. Down at Palawan we had more than twenty-two incidents occur in a well-staffed and organized camp, not in twenty-two months but in less than twelve. Here we have the Kempei Tai unit with twelve men under a first lieutenant. He had a terrific police job on his hands. Also, much of the blame for mistreatment and torture is unfairly placed upon Lieutenant Kawamori. Colonel Yamaguchi had a terrific tactical problem of separating the sheep from the goats, these civilians who were playing soldier and the civilians who were really civilians, and he probably was necessarily a bit rough.

It is not unique for military men to sometimes punish the innocent with the guilty.

I remember reading an incident involving "Black Jack" Pershing, -- General Pershing. He was then a captain in 1902 in charge of Mindanao, and he had a lot of trouble with the Moros. He called for some help so they sent him a gun boat which he put on Lake Lanao. This little gun boat would go around the lake, and if they would see the natives they would shell them. At the same time his troops were suffering casualties from the Moros. The Moros would attack one or two Americans, cut their heads off, and kill them one or two at a time. After Captain Pershing was losing troops one or two at a time these Moros came to him and said, "Look, Captain, you are not operating properly. You are hurting our innocent people." "Black Jack" said, "Your men are hurting our people too. Just yesterday your men killed two of my soldiers." The sultan said, "Sorry, Captain, there is nothing we can do. That man who did that just ran amuck, and we couldn't stop him." "Black Jack" said, "My boat must have run amuck too, and we couldn't stop it." The Captain said, "Maybe the men on it ran amuck. There is nothing I can do." Then the sultan said, "We must do something, Captain", and the Captain said, "Well, I'll tell you, if you stop your men from running amuck, maybe I can stop the boat from running amuck". Then the sultan said, "I don't know if I can stop my men from running amuck", and "Black Jack" said, "We don't know if we can stop our boat from running amuck". The Captain shot up a flare. The Captain brought back the gunboat and there

were no more incidents in Mindanao. That is the same problem that faced Yamaguchi. He was in a hostile country and the so-called guerrillas would run amuck killing a few of his men so he had to go out and kill some of these guerrillas. That is not Kempei Tai. That was a problem faced by Colonel Yamaguchi, the senior Commander of that island. He solved it in a military fashion just like General Pershing solved his problem.

Also we have evidence by the cook at the Kempei Tai. He said he saw prisoners led down from the investigation room in a beaten and battered up condition. That is explainable. Remember Sergeant Takeshita was not a gentle man with the combat troops in the area who lived and died from the quickness of their trigger fingers. When they ~~had~~ somebody threatening their lives, they weren't too gentle with those prisoners. Those prisoners, when they were through with them, were turned over to the Kempei Tai in not as good a condition as when they were picked up. Many of those people who this cook testified came out of that room in a beaten and bruised condition were put in that condition by the combat troops. No cook has time to see men going up and down the stairs. He doesn't know how or when that man was beaten.

In conclusion I wish to state this is a case involving command responsibility. There is not one bit of evidence that connects Shuji Kawamori with any incident directly. The evidence ~~is~~ clear that nobody reported the incidents to him. He was not present at any of the investigations or beatings. I believe War Crimes work has unduly extended this

theory of command responsibility. What is the responsibility of command? What is that doctrine? A commander refers to a high command. We are not talking about corporals, sergeants, or platoon leaders or company commanders. Those are not commanders on which command responsibility should be placed. Those are troop leaders. They lead and fight troops. Commanders should be limited to generals, corps commanders, army commanders, and group commanders. Those are the type of commanders upon whom the responsibility should be imposed for failure in the training of troops for delinquencies over widespread areas for troops under their command. If we hold otherwise, gentlemen, we are faced with this practical situation. We have three privates down in Company B of the First Battalion of the 18th Regiment of the 31st Division commit some deed, -- series of atrocities, would we then hold under this theory of command responsibility first the Chief of Staff, General Marshall responsible, go on down the line to a Corps Commander, then down to the Divisional Commander, is he responsible? Gentlemen, if we go from as high as the Commanding General of the Army down to the corporal, squad leader, there is nobody that is immune. In other words, we do not say, "Be military yourself and do not commit war crimes." We make of every man his brother's keeper. He is his brother's keeper automatically under this command responsibility doctrine.

Therefore, I urge on this Commission to bring in an acquittal as to Shuji Kawamori because prosecution has failed to prove that Shuji Kawamori in any way participated in the mistreatment, torture or killings of any Filipinos on the Island of Negros.

. Thank you.

COLONEL CHASE: The Commission will take a short recess.

(Short recess)

COLONEL CHASE: The Commission is in session.
Is the prosecution ready to proceed with their argument?

MR. BLACK: Yes, sir.

CLOSING ARGUMENT FOR THE PROSECUTION

BY MR. BLACK:

If it please the Commission with regard to Specifications 1, 3, 4, 6, 11, 12, 13, 14, and 15, I will make no other comment or add anything else to what is already in evidence except to say it was ably and well covered by the defense counsel. It is not proper or within my purview to discuss or characterize the evidence, its weight, relevancy, or materiality. I will leave that to and for the Commission to weigh and decide accordingly. Without characterizing in any way the witnesses for the prosecution nor likewise to apologize or alibi for their limitations, I will state they were simple people and some of them were not very intelligent, but they were certainly trying at least to tell the truth. True enough they were not experienced witnesses. They were not able to give accurate details to corroborate each other, but they were doing the best they could with their limited capabilities and within their capacities to tell what they knew, what they saw had happened. In regard to the statement by the defense that a good deal of the testimony was based on hearsay, suffice it to say that it is hardly hearsay when a witness states that his nails were pulled out, that he was burned with a lit cigarette, or that he was hung by his arms and beat with a stick all over the various parts of his body suffering severe and excruciating pain. The defense has attempted, without

refuting the testimony the prosecution has introduced, to confuse if they cannot create a doubt. They say at least perhaps we can confuse the issues here by introducing the Yamaguchi Battalion, by introducing Takeshita, and by introducing Sasaki. That is not enough for them. Then they go back and bring in Captain "Black Jack" Pershing, then the Litchfield trial, and a few other irrelevant, removed, far-fetched incidents and occasions. We are not concerned with those. We are concerned with the responsibilities of Shuji Kawamori as commanding officer of the Kempei Tai in Bacolod from the latter part of October 1942 until some time in June 1944. It is a fact that he was the commanding officer of the Kempei Tai. It is a fact that his subordinates arrested, mistreated and tortured, and killed Filipino suspects. Some of them perhaps they were justified in suspecting, others were probably innocent, even by the Japanese standards, even by the standards of the Kempei Tai because they were released after being given the famous Kempei Tai treatment. According to the defense the Bacolod Kempei Tai was nothing but a mere school to improve the minds and manners of the Filipinos, to give them a course of instruction, and some of them who were deemed worthy were given a post-graduate course. As a matter of fact some were brought back for refresher training. They were just brought there to make good Filipinos out of these people so that they would cooperate with the Japanese under the co-Asiatic sphere. As commanding officer of the Bacolod Kempei Tai it was Kawamori's duty and his responsibility to supervise and control every man under his command

so that they did not commit and continue to indulge in a regular policy of mistreatment, abuse and torture. He cannot escape culpability or claim immunity because, in some instances, he claims he was not present or he was not there or there were no complaints made to him. Gentlemen of the Commission, it is not a figure of speech or my imagination that prompts me to say to you that it would have been much worse for those Filipinos who were there to complain to Kawamori or anyone else because we all know only too well what happened to any who did complain or tried to complain about their treatment.

With regard to Specification 5, if it please the Commission, defense has practically accused WCID investigators of concocting a story, inventing a story. They could not find the remains of the three people so they had to find a substitute in order to satisfy the legal requirements of corpus delicti. Now what is corpus delicti? The defense said you must produce the body. That is not quite the true meaning of the word "corpus delicti." All that corpus delicti means is that a crime was committed, that someone committed the crime, and that it was committed against a certain person. We all know from the history of many records of murder trials the bodies were never found. They were disposed of. They disappeared from the face of the earth, yet those people were convicted of murder as good as if the bodies were produced in court before the judges and juries who tried the case or heard the testimony.

Now it is significant that on March 11th, on Saturday,

-- and well did Cresencio Federez remember that day -- he said, "That is the day on which my life was saved." He said that he and Torres were afraid because they knew and felt they were next to be taken and killed. It would have been very simple for the prosecution to prepare Cresencio Federez by saying to him, "Well, you were sitting there. You would have seen them taken away," but no, Federez is anxious to tell the truth. He said, "My back was turned, I didn't see them but they were walking away from the way in which I was facing. They were walking behind me." He heard a groan. He did not hear any shot. Did they take Vicente Torres for a walk to exercise him? Now, it is significant that on that date and on that night there were four people -- two unidentified people picked up at the Bacolod High School -- and Torres and Federez. Three of them were killed at this spot and strangely enough on the following day, the 12th, when Dr. Aurelio was arrested the bodies of three people were found. A pure coincidence, just placed there by WCID investigators so that the corpus delicti may be established for the satisfaction of the Commission. They just happened to be there. Who are those three? We are not concerned with the three. I am only concerned now with the number "three." I am only concerned with Vicente Torres because the prosecution charges Kawamori with being the commanding officer of the detail that executed Vicente Torres. There is ample identification of the body of Vicente Torres. Surely the prosecution would have produced more witnesses who could have found the bodies if the bodies were found or if the

prosecution were able to locate witnesses who were able to find the bodies. But the point is, gentlemen, frequently there are no eye witnesses to murders. The prosecution and investigators are not advised that a murder is to be committed so that they could come prepared with witnesses, cameras, and everything else to show the court and say, "Here it is. We saw it." It is for the Commission to weigh the evidence and determine whether or not in its opinion Torres was killed, and the prosecution believes -- not only believes but feels certain even beyond a reasonable doubt -- that Vicente Torres was killed by the Kawamori detail. Inasmuch as he was the only officer in charge of the detail and inasmuch as the men under him who committed the act were his subordinates, he is guilty of murder as charged.

Of course, the prosecution could not show to what extent, if any, Lieutenant Kawamori participated in the killing of Vicente Torres. Nobody saw it happen, but he was there and he was the commanding officer, and it was under his control and jurisdiction. What was Vicente Torres' crime? What crime against the Japanese Government or Army did he commit? The evidence shows his father was a famous guerrilla captain and the possibilities are that he sent or received some kind of message for his father. What defense, what opportunity was Vicente Torres given to save his life by a trial or otherwise?

There is testimony in the record that he said, "Please spare me. I will not do it again." How did his entreaty and prayer meet in the eyes of Kawamori?

With respect to Specifications 7 and 8, I will combine them. Even if the prosecution has failed to establish the technical requirements of corpus delecti insofar as Specification 7 of Domingo Mananquel is concerned, let me say to the Commission that if Domingo Mananquel was not dead he was certainly more dead than alive as testified by the prosecution witnesses.

The prosecution has failed to establish the fact that Magbanua and Allie were killed at the Kempei Tai.

It is a fact that they were killed, but the prosecution has failed to show by whom or where.

MR. SIMON: Just a moment. Prosecution has misstated the facts in the record when he says that Magbanua and Allie were killed. I don't believe the record will bring that out as to those facts having been developed. It is improper argument to state facts not in the record, sir.

COLONEL CHASE: The prosecution may continue. The Commission will consider the point raised by the defense and will, of course, verify and enter its findings on what is actually in evidence in this case.

MR. BLACK: (Continuing) It is a fact that Magbanua and Allie were tortured. The defense has made, or tried to make, much out of the fact that prior to the time when Mananquel, Allie and Magbanua were brought to the Bacolod Kempei Tai they had been beaten and mistreated

by the butai, by the Yamaguchi Butai at another place. That may well be true, and I am not concerned with that. The fact is, when they were brought to the Kempei Tai at the Bacolod Hospital, they were tortured and beaten and, as a result, so much so that Mananque~~i~~ was dead, or if he was not dead, he was certainly, as I said before, more dead than alive.

The defense has made much, or tried to make much of the alleged prejudice of the Filipino witnesses. Gentlemen, even if it is prejudice to hate those who oppress, torture and kill, at least two or three witnesses, if I recall correctly, stated without quibbling or equivocation when asked, "Do you like the Japanese?" they said, "No." When asked, "Do you hate the Japanese?" they said, "Certainly they hated them," even with the consuming hatred as put into them by the defense counsel, but at least two of them said, "I have nothing against Kawamori personally because he did not beat me personally." If that is prejudice, then I don't know the meaning of the word "prejudice." They did not attempt to conceal what they felt or what their true feelings were. They stated, as best they could, what they knew.

The prosecution is grateful to the Commission for the courtesy and cooperation extended in presenting the case and also feels that the defendant has received a fair and able defense at the hands of his staff. The prosecution will merely ask the Commission to weigh and judge the evidence and to decide on the evidence and give the accused a sentence commensurate with the extent and degree of his culpability.

Thank you.

COLONEL CHASE: The Commission in informal discussion during recess has decided that it will need a full day for study of the record and individual consideration of the evidence in the rather complicated and involved testimony in this case, in addition to such time as may be necessary for its deliberations. Accordingly, the Commission when it recesses this afternoon will adjourn until 1330 hours on the afternoon of the day after tomorrow, Thursday, 14 November 1946, at which time it is believed a verdict can be rendered.

The senior Military Police noncommissioned officer will communicate that time to the commanding officer of the Military Police Detachment that we expect to have a verdict at that time.

The Commission will now recess until that hour.

(The Commission adjourned at 1500 hours to reconvene at 1330 hours, 14 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL

VOLUME VII

PAGES 523 TO 524, INCL.

MANILA, P. I.

DATE: 14 November 1946

COPY NO. 10

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

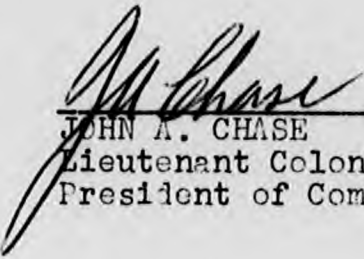
Paragraph 12, Special Orders 243, Headquarters,
United States Army Forces, Western Pacific,
dated 22 October 1946; amended by

Paragraph 2, Special Orders 250, Headquarters,
United States Army Forces, Western Pacific,
dated 30 October 1946; amended by

Paragraph 3, Special Orders 254, Headquarters,
United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.



JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

Shuji KAWAMORI)

PUBLIC TRIAL)

Court No. 3
High Commissioner's Residence
Manila, P. I.
14 November 1946

Met, pursuant to adjournment, at 1330 hours.

MEMBERS OF MILITARY COMMISSION:

LIEUTENANT COLONEL JOHN A. CHASE, CMP
President and Law Member
LIEUTENANT COLONEL ROBERT C. GUHL, CAC
CAPTAIN LOUIS J. WEPLINGER, TC
CAPTAIN HARLYN W. LACEY, CAV (QM)

APPEARANCES:

FOR THE PROSECUTION:

MR. ABRAHAM BLACK, CS, Chief Prosecutor
SECOND LIEUTENANT DEMETRIO R. ICO, INF (PA),
Assistant Prosecutor

FOR THE DEFENSE:

MR. KENNETH K. SIMON, CS, Chief Defense Counsel
MR. OTTO SCHULTZ, CS, Assistant Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

MR. ROMUALDO TACCAL)
2D LT. SAMUEL S. KOIDE) JAPANESE
2D LT. TATCHI NISHIHARA)

OFFICIAL REPORTERS FOR THE COMMISSION:

S. CORNELIA PEVETO
NORA E. O'CONNELL

I N D E X

GENERAL

PAGE NO.

Findings and Sentence

523-524

P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 1330 hours, 14 November 1946, in Court Room No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL CHASE: The Commission is in session.

MR. BLACK: The record will show when the Commission reconvened all members of the Commission, the prosecution, defense counsel, the accused, his personal interpreter, the reporters and interpreters were present.

COLONEL CHASE: The accused, together with the senior defense counsel, his personal interpreter, if he so desires, and one of the official interpreters will rise and stand before the Commission.

(The accused, Shuji Kawamori, his defense counsel, Mr. Simon, the accused's personal interpreter and the Commission interpreter, Taccad, stood before the Commission as directed.)

COLONEL CHASE: Findings and sentence:

Shuji Kawamori, the Commission in closed session by secret written ballot, two-thirds of the members present concurring in each vote as to the findings and sentence finds you:

Of Specifications 1, as amended, 3, 4, 5, 7, 11 and 15, GUILTY, without any exception;

Of Specification 8, as amended, GUILTY, except the words "and kill"; of the excepted words of Specification 8, NOT GUILTY;

Of Specification 14, GUILTY, except the word "Lumacano" spelled L-U-M-A-C-A-N-O, substituting therefor the word

"Lumacang" spelled L-U-M-A-C-A-N-G, and except the words "Ormaneta, first name unknown, and Mercado, first name unknown." Of the excepted words NOT GUILTY; of the substituted word GUILTY.

Of Specifications 6, as amended, 12 and 13, NOT GUILTY;
Of the Charge, GUILTY,
and sentences you to be CONFINED AT HARD LABOR FOR THE REST OF YOUR NATURAL LIFE.

(Findings and sentence were then translated to the accused by Interpreter Taccad.)

COLONEL CHASE: The Military Police will escort the prisoner from the courtroom.

(The accused was escorted from the courtroom by the Military Police.)

The Commission will adjourn to meet at the call of the President.

(The Commission adjourned at 1345 hours, 14 November 1946.)

AUTHENTICATION OF RECORD

The foregoing 524 pages, contained in Volumes I to VII, inclusive (together with Prosecution's Exhibits 1 to 7, inclusive), are hereby certified as the record of the proceedings of the Military Commission appointed by

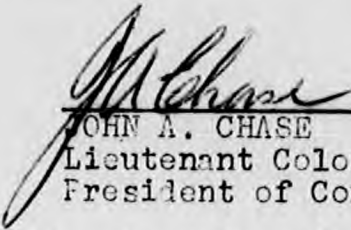
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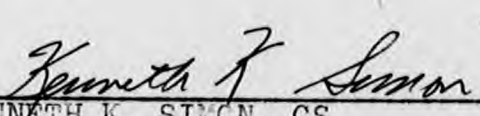
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United States Army Forces, Western Pacific,
dated 4 November 1946,

in the trial of the case of the United States of America
against Shuji KAWAMORI.

Dated 9 December 1946.


JOHN A. CHASE
Lieutenant Colonel, CMF
President of Commission

THIS ACKNOWLEDGES that the above-described record
was submitted to defense counsel prior to being certified
by the President of the Commission.


KENNETH K. SIMON, CS
Chief Defense Counsel

WAR CRIMES TRIAL STATUS REPORT

CHQ. SOAP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

File Number P-139

Date of Report 19 August 1946

Title of case U.S.A. vs. Masao HANJO

PART A

1. Names and Nationalities of Accused

Masao HANJO - Japanese

2. Nature, Place and Date of Offense

Murder, cruelty and torture, other assaults and mistreatments of civilians at or near Davao City, Occidental Negros Province, Philippine Islands in January, July and December 1944, February and April 1945.

3. Names and Nationalities of Victims

Juan Villar	- Filipino	Roman Dizon	- Filipino
Frederic Vera	- Filipino	Dionisio Letecan	- Filipino
Bartolomeo Duriano	- Filipino	Pedro Amador	- Filipino
Francisco Alindag	- Filipino	Felicite Alba	- Filipino
Ricardo Alindag	- Filipino	Pablo Palomo	- Filipino
Dionisio Antera	- Filipino	Marcelo de Tenna	- Filipino
Francisco Villaser	- Filipino	and an unknown number of	
Fibureto Jometa	- Filipino	unidentified Filipinos.	
Gil Tanique	- Filipino		
Benito Mirivelles	- Filipino		

4. Probable Place and Date of Trial

High Commissioner's Residence, Manila, Philippine Islands, October 1946.

PART B

5. Place and Date of Trial

WD AGO Form R-5392
21 June 1946

(Over)

Inclosure 2 to WD Letter (AGAM-PM 000.5 (20 Jun 46)WDSCA) 21 June 1946

6. Judgment and Sentence (Relate to Specific Accused)

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

9. Date and Place of Execution of Sentence

INSTRUCTIONS:

Prepare Trial Status Reports for every case in trial status promptly after reference for trial (Part A), at the conclusion of the trial (Part B) and at the completion of final action in the case (Part C) and transmit by fastest means in triplicate at each stage of the proceedings to the Director, Civil Affairs Division, WDSS, The Pentagon, Washington 25, D. C.

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WAR CRIMES TRIAL STATUS REPORT

GHQ, SCAP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

Number P-129

Date of Report 19 August 1946

Title of Case U.S.A. vs. Masao NANO

PART A

Names and Nationalities of Accused:

2. Nature, Place and Date of Offense:

3. Names and Nationalities of Victims:

4. Probable Place and Date of Trial:

PART B

5. Place and Date of Trial:

WD AGO Form R-5392
21 June 1946

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Jun 46) WDSCA)

ment and Sentence (Re.

ic Accused):

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused):

Masao NANJO - 11 February 1947, sentence approved but execution thereof withheld by Major General George F. Moore, Commanding General, PHILRYCOM, pending action of SCAP.

8. Action of Confirming Authority (Specify authority and date and relate to specific accused):

Masao NANJO - 12 August 1947, sentence confirmed and ordered executed by General of the Army Douglas MacArthur, SCAP, under the supervision of and at a time and place to be designated by the Commanding General, PHILRYCOM.

9. Date and Place of Execution of Sentence:

Masao NANJO - 3 September 1947, Laguna Province, Philippines.

NOTES:

- Trial Status Reports for every case in trial status promptly after trial (Part A), at the conclusion of the trial (Part B) and at the final action in the case (Part C) and transmit by fastest means in each stage of the proceeding to the Director, Civil Affairs Division, Pentagon, Washington 25, D. C.

Reports Control

WAR CRIMES TRIAL STATUS REPORT

CHQ, SCIP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)File Number P-129Date of Report 19 June 1946Title of Case U. S. A. vs. Haseo HAKUPART A1. Names and Nationalities of Accused:2. Nature, Place and Date of Offense:3. Names and Nationalities of Victims:4. Probable Place and Date of Trial:High Commissioner's Residence, Manila, Philippine Islands,
7 October 1946.PART B5. Place and Date of Trial:High Commissioner's Residence,
Manila, Philippine Islands.Arrest - 7 October 1946.Trial - 7 October 1946.

(Over)

Inclosure 2 to WD Letter

er (AGAM-PM 000,5 (20 Jun 46) WDSCA) 21 June 1946.

WD AGO Form R-538
21 June 1946

6. Judgment and Sentence (Relate to Specific Accused)

Nasao KANJO - 14 November 1946, Guilty, death by hanging.

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

9. Date and Place of Execution of Sentence:

INSTRUCTIONS:

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WAR CRIMES TRIAL STATUS REPORT

CHQ. SOAP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

File Number P-129

Date of Report 19 August 1946

Title of case U.S.A. vs. Masao HANJO

PART A

1. Names and Nationalities of Accused

Masao HANJO - Japanese

2. Nature, Place and Date of Offense

Murder, cruelty and torture, other assaults and mistreatments of civilians at or near Davao City, Occidental Negros Province, Philippine Islands in January, July and December 1944, February and April 1945.

3. Names and Nationalities of Victims

Juan Villar	- Filipino	Roman Dizon	- Filipino
Teodoro Vera	- Filipino	Dionisio Letosa	- Filipino
Bartolomeo Toriano	- Filipino	Felix Amador	- Filipino
Faustino Alindag	- Filipino	Felicite Alba	- Filipino
Ricardo Alindag	- Filipino	Pablo Palomo	- Filipino
Dionisio Antera	- Filipino	Marcelo de Tena	- Filipino
Francisco Villacer	- Filipino	and an unknown number of unidentified Filipinos.	
Tiburcio Jometa	- Filipino		
Gil Panique	- Filipino		
Benito Mirivelles	- Filipino		

4. Probable Place and Date of Trial

High Commissioner's Residence, Manila, Philippine Islands, October 1946.

PART B

5. Place and Date of Trial

WD AGO Form R-5392
21 June 1946

(Over)

Inclosure 2 to WD Letter (AGAM-PM 000.5 (20 Jun 46)WDSCA) 21 June 1946

6. Judgment and Sentence (Relate to Specific Accused)

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

9. Date and Place of Execution of Sentence

INSTRUCTIONS:

Prepare Trial Status Reports for every case in trial status promptly after reference for trial (Part A), at the conclusion of the trial (Part B) and at the completion of final action in the case (Part C) and transmit by fastest means in triplicate at each stage of the proceedings to the Director, Civil Affairs Division, WDSB, The Pentagon, Washington 25, D. C.

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WAR CRIMES TRIAL STATUS REPORT

GHQ, SCAP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

Number P-129

Date of Report 19 August 1946

Title of Case U.S.A. vs. Masao NANJO

PART A

Names and Nationalities of Accused:

2. Nature, Place and Date of Offense:

3. Names and Nationalities of Victims:

4. Probable Place and Date of Trial:

PART B

5. Place and Date of Trial:

WD AGO Form R-5392
21 June 1946

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Jun 46) WDSCA)

ment and Sentence (Re.

ic Accused):

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused):

Masao NANJO - 11 February 1947, sentence approved but execution thereof withheld by Major General George F. Moore, Commanding General, PHILRYCOM, pending action of SCAP.

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Masao NANJO - 12 August 1947, sentence confirmed and ordered executed by General of the Army Douglas MacArthur, SCAP, under the supervision of and at a time and place to be designated by the Commanding General, PHILRYCOM.

9. Date and Place of Execution of Sentence:

Masao NANJO - 3 September 1947, Laguna Province, Philippines.

REMARKS:

- Trial Status Reports for every case in trial status promptly after trial (Part A), at the conclusion of the trial (Part B) and at the final action in the case (Part C) and transmit by fastest means in each stage of the proceeding to the Director, Civil Affairs Division, Pentagon, Washington 25, D. C.

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WAR CRIMES TRIAL STATUS REPORT

GHQ, SCIP, LEGAL SECTION, MANILA BRANCH
(Reporting Office)

File Number P-129

Date of Report 19 August 1946

Title of Case U. S. A. vs. Masao HARA

PART A

1. Names and Nationalities of Accused:

2. Nature, Place and Date of Offense:

3. Names and Nationalities of Victims:

4. Probable Place and Date of Trial:

**High Commissioner's Residence, Manila, Philippine Islands,
7 October 1946.**

PART B

5. Place and Date of Trial:

**High Commissioner's Residence,
Manila, Philippine Islands.**

WD AGO Form R-5392
21 June 1946

**Arraignment - 7 October 1946.
Trial - 7 October 1946.**

(Over)

Inclosure 2 to WD Letter (AGAM-PM 000,5 (20 Jun 46) WDSCA) 21 June 1946.

6. Judgment and Sentence (Relate to Specific Accused)

Nasao KANJO - 14 November 1946, Guilty, death by hanging.

PART C

7. Action of Reviewing Authority (Specify authority and date and relate to specific accused)

8. Action of Confirming Authority (Specify authority and date and relate to specific accused)

9. Date and Place of Execution of Sentence:

INSTRUCTIONS:

Prepare Trial Status Reports for every case in trial status (Part B) after reference for trial (Part A), at the conclusion of the trial (Part B) and at the completion of final action in the case (Part C) and transmit by the fastest means in triplicate at each stage of the proceedings to the Director, Civil Affairs Division, WDSS, The Pentagon, Washington 25, D.C.

Dupl

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

VS

MASAO NANJO

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)
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)
)
ARRAIGNMENT

and

PUBLIC TRIAL

VOLUME I
PAGES 1 TO 84 INCL.

108

MANILA, P. I.

DATE: 7 October 1946

COPY NO: 1

AE

Original

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANOJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

VS

MASAO NANJO

ARRAIGNMENT

and

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
7 October 1946

Met, pursuant to notice, at 0900 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, Sig C

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, .. Co-Defense Counsel
KCS

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd Lt. HAIUZO NIITA	Japanese
Tec 3 TAKEO SAITO	Japanese
FERLOMENA ZOSA	Ilongo (Visayan)
PEDRO GENOVES	Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Lt. James Nakamura	47	53			
Demetria Villas	52	66		73	69
Cesar Lamio	77	80			

- - -

EXHIBITS

		<u>Offered</u>	<u>Received</u>	<u>Withdrawn</u>
Prosecution's Exhibit No. 1			6	
"	"	" 2	7	
"	"	" 3	7	

- - -

DOCUMENTARY EVIDENCE

	<u>Page No.</u>
Paragraph 14 of Special Orders 218	3
" 25 " " " 224	4
" 23 " " " 228	5
" 2 " " " 227	5
Charge and Specifications	14

- - -

GENERAL

Reporters sworn	8
Interpreters sworn	8
Commission sworn	8
Prosecution sworn	8
Amendment to Specifications	19
Motions by the Defense	21
" denied	43

P R O C E E D I N G S

(The Commission convened, pursuant to notice, at 0900 hours, at Court No. 3, High Commissioner's Residence, Manila, P. I., 7 October 1946.)

COLONEL STICKNEY: The Commission will come to order and hear any matters to be brought before it.

MR. AITKEN: Correct me if I am mistaken in stating this as to the agreement. Sir, it has been agreed between accused, his counsel, and the prosecution that translation of these proceedings into Japanese by the official interpreter is not required since the accused has a personal interpreter. Is that correct?

MR. WARD: That is correct.

MR. AITKEN: It is therefore requested, and defense counsel joins in the request, that such translation be dispensed with unless specifically requested by the accused in the course of trial.

COLONEL STICKNEY: So ordered.

MR. AITKEN: There has been referred to this Commission for trial the case of the United States of America against Masao Nanjo, SIJ 6585. The accused is now present together with defense counsel appointed by the convening authority with his personal interpreter. The prosecution is ready to proceed.

COLONEL STICKNEY: You may proceed.

MR. AITKEN: The prosecution submits for incorporation into the record of these proceedings, the following documents:

Paragraph 14 of Special Orders 218, Headquarters,
United States Army Forces, Western Pacific, 23 September
1946, entitled "Appointment of a Military Commission."

There have been changes made to the original order,
the first dated entitled:

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders)

"APO 707

No.....227)

EXTRACT

3 October 1946

"2. So much per 14, SO 218, cs, this hq (apmt Mil
Commission, NANJO), as reads,

LT COL JOHN B MADDEN (FA) CMP President & Law Member

LT COL ROBERT C GUHL CAC

MAJ HERMAN M KLENTSCHY CE

MAJ SYLVESTER J EIFERT INF

is amended to read.

COL ARCHIBALD L PARMELIN CAC President & Law Member

LT COL WILLIAM MacKINTOSH ORD

MAJ ROBERT W FRITZ CE

MAJ MELTON B. HERR SigC"

It has come to the attention of the Commission and
the prosecution that the name "Melton B. Herr" is misspelled
and should be "Milton B. Herr."

(At this point Mr. Aitken read paragraph 23 of
Special Orders 228 of 4 October 1946, APO 707; paragraph
25 of Special Orders 224, 30 September 1946, APO 707.)

MR. WARD: At this time, Mr. Aitken, I believe
it will be proper -----

MR. AITKEN: I will make the announcement.
In accordance with oral orders, to be confirmed in writing
later, Mr. John J. Schauer has been appointed co-defense
counsel.

COLONEL STICKNEY: There being no objection,
the special orders will be incorporated into the record
of the proceedings.

MR. WARD: No objection by the defense.

"RESTRICTED

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders) "APO 707
: 23 September 1946
No. 218) EXTRACT

"14. The following officers are appointed members
of a Military Commission to meet in the City of Manila,
Philippine Islands, at the call of the President thereof,
for the trial of Masao NANJO, accused war criminal.

(Authority: 1st Ind. GHQ, AFAC, APO 500, 25 June 46, to
letter GHQ, SCAP, file AG 000.5 (25 June 46) LS, dated
25 June 46, subj: 'Trial of Masao Nanjo'):

LT COL JOHN B MADDEN (FA)	CMP President & Law Member
LT COL ROBERT C. GUHL	CAC
MAJ HERMAN M KLENTSCHY	CL
MAJ SYLVESTER J EIFERT	INF

"The Prosecution will be conducted by
MR THOMAS D AITKEN, CS. The Defense Counsel will be
MR FRANK D SPRINGER, CS.

"The Commission will follow the provisions of
Letter, GHQ, SCAP, dated 5 December 1945, subj:

'Regulations Governing the Trials of Accused War Criminals,'
and is authorized to employ or appoint such interpreters,
stenographic reporters and other assistants as it shall
deem advisable.

"The record of trial including any judgment or
sentence will be transmitted directly to this headquarters
for action by the appointing authority.

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"OFFICIAL:

"J J GERHARDT
Colonel, AGF
Adjutant General

/s/ "W P Moore
W P MOORE
Lt Col, AGF
Asst Adj Gen

"DISTRIBUTION:
War Crimes (50)

"RESTRICTED"

"RESTRICTED

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC /bcr
"APO 707

30 September 1946

"Special Orders)

No. 224)

EXTRACT

"25. So much par 14, SO 218, cs, this Hq (apmt Mil
Commission), as reads, 'The Defense Counsel will be
MR. FRANK D SPRINGER, CS,' is amended to read, 'The Defense
Counsel will be MR ROBERT L VARD, CS.' (NANJO)

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"OFFICIAL:

"J J GERHARDT
Colonel, AGF
Adjutant General

/s/ "W P Moore
W P MOORE
Lt Col, AGF
Asst Adj Gen

"DISTRIBUTION:
War Crimes (50)

"RESTRICTED"

"RESTRICTED

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders)

"APO 707

No.....227)

EXTRACT

3 October 1946

"2. So much par 14, SO 218, cs, this hq (apmt Mil
Commission, NANJO), as reads,

'LT COL JOHN B MADDEN (FA) CMP President & Law Member

LT COL ROBERT C GUHL CAC

MAJ HERMAN M KLENTSCHY CE

MAJ SYLVESTER J EIFERT INF'

is amended to read

'COL ARCHIBALD L PARMELEE CAC President & Law Member

LT COL WILLIAM MacKINTOSH ORD

MAJ ROBERT W FRITZ CE

MAJ MELTON D HERR SigC'

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"OFFICIAL:

/s/ "W P Moore
/t/ W P MOORE
Lt Col, AGD
Asst Adj Gen

"J J GERHARDT
Colonel, AGD
Adjutant General

"DISTRIBUTION:
War Crimes (50)

"RESTRICTED"

"RESTRICTED"

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC

"Special Orders)

"APO 707

No.....228)

EXTRACT

4 October 1946

"23. COL RICHARD C TICKNEY, INF, is aptd President &
Law Member of the Mil Commission aptd by par 14, SO 218, cs,
this hq, as amended by par 2, SO 227, cs, this hq, vice

COL ARCHIBALD L PARMELEE, CAC, reld. (NANJO)

"BY COMMAND OF MAJOR GENERAL CHRISTIANSEN:

"OFFICIAL:

"J J GERHARDT
Colonel, AGD
Adjutant General

/s/ "W P Moore
/t/ W P MOORE
Lt Col, AGD
Asst Adj Gen

"DISTRIBUTION:
War Crimes (50)

"RESTRICTED"

MR. AITKEN: The prosecution offers in evidence the following document marked for purposes of identification as Prosecution's Exhibit No. 1:

Letter Order AG 000.5 (5 Dec 45) LS, General Headquarters, Supreme Commander for the Allied Powers, dated 5 December 1945, subject, "Regulations Governing the Trial of War Criminals. "

COLONEL STICKNEY: Any objection by the defense?

MR. WARD: No objection.

COLONEL STICKNEY: There being no objection, the document will be received in evidence as Prosecution's Exhibit No. 1.

(Prosecution's Exhibit
No.1 received in evidence)

MR. AITKEN: The prosecution offers in evidence the following document marked for purposes of identification as Prosecution's Exhibit No. 2:

Letter Order AG 000.5 (29 May 46) LS, General Headquarters, Supreme Commander for the Allied Powers

dated 29 May 1946, subject, "Trial of Masao Nanjo" and
1st Indorsement thereto dated 29 May 1946.

COLONEL STICKNEY: Is there any objection by
the defense counsel?

MR. WARD: No objection.

COLONEL STICKNEY: There being no objection,
the document will be received in evidence as Prosecution's
Exhibit No. 2.

(Prosecution's Exhibit No. 2
received in evidence.)

MR. AITKEN: The prosecution offers in evidence
the following document marked for purposes of identification
as Prosecution's Exhibit No. 3:

Letter Order, President of this Commission dated 7
October 1946, subject, "Swearing witnesses for the trial
of Masao Nanjo."

COLONEL STICKNEY: Is there any objection by
the defense?

MR. WARD: No objection.

COLONEL STICKNEY: There being no objection
the document will be received in evidence as Prosecution's
Exhibit No. 3.

(Prosecution's Exhibit No. 3
received in evidence.)

MR. AITKEN: The prosecution is ready to
proceed with the arraignment of Masao Nanjo, SIJ 6585.

It might be proper at this time, but that is subject
to the disposition of the Commission, for me to make my
motion with reference to the spelling which was discussed
in a pre-hearing. I do not know whether you prefer that

made at this time or not.

COLONEL STICKNEY: I think a little later.
The reporters will be sworn.

(Helen R. Solomon and Genevieve A. Roberts were duly sworn as official court reporters.)

COLONEL STICKNEY: The interpreters will be sworn.

(2nd Lt. Hakuzo Nitta and Tec 3 Yakeo Saito were duly sworn as official court interpreters.)

COLONEL STICKNEY: The Commission will be sworn.

(Colonel Richard C. Stickney, Lieutenant Colonel William MacKintosh, Major Robert W. Fritz, and Major Milton B. Herr were duly sworn as members of the Commission.)

COLONEL STICKNEY: The prosecution will be sworn.

(Mr. Thomas D. Aitken, CS, was duly sworn as prosecutor.)

MR. AITKEN: A certified copy of the Charge and Specifications against Masao Nanjo, together with a true and complete translation thereof was served upon the accused by Mr. Thomas D. Aitken, CS, 17 September 1946 and again on 3 October 1946, at POW Stockade, High Commissioner's Residence, Manila. The defense counsel was appointed by the Executive for War Crimes Trials on -- I haven't the date of that, counsel --

MR. WARD: September 30, as you have already cited in the record as to Special Orders No. 224, paragraph 25.

MR. AITKEN: Defense counsel was furnished a copy of the Charge and Specifications against the accused on 7 September 1946 and again on 17 September 1946. This date is the date defense counsel first received a copy of the Charge and Specifications and has been working on the preparation of this case since that time.

COLONEL STICKNEY: I think it might be well at this time to offer the information about the name "Nanjo." Do you have a suggestion on that, as to the proper time?

MR. WARD: I believe that should be arranged, sir, and at that time if there is any amendment that he should make that motion before the court.

COLONEL STICKNEY: Very well.

MR. AITKEN: I wish it clearly understood, however, this is not an amendment. The phonetic spelling of the name -- the man being a Japanese, writes his name in accordance with certain Japanese characters -- when translated into English phonetically I have found that the word "Nanjo" may be used or "Nanjyo" may be used for the same Japanese characters. And consequently, inasmuch as there is no question of identification between two different persons, one whose name in English is "Nanjo" and another whose name is "Nanjyo", there is only one "Nanjo" in this case and about fifty per cent of all these documents, official and otherwise, that have been used in the case used "Nanjyo" as the phonetic English spelling. I wish it understood, whichever phonetic English spelling is used -- N-a-n-j-o or N-a-n-j-y-o, it relates exactly to the same person.

MR. WARD: There is a strong objection. Of course, the motion is not before the Commission. There is a strong objection by the defense at this time. Mr. Aitken is testifying for the court that he is an expert between Japanese and English. That is what his testimony amounts to. He is not on the stand, for one thing, and secondly, the prosecutor in this case could not so testify. If he wishes to make that amendment -- that is that Nanjo, N-a-n-j-o, is completely different than Nanjyo, N-a-n-y-j-o, he should put his experts on the stand and so establish it, and he should make his motion to amend the information after the arraignment. If they had wished to change the defendant and naming an alias, as any specification should do, at that time they should read in that "Masao Nanjo, alias Nanjyo is hereby charged." That they have not done.

MR. AITKEN: In answer to that, I wish to disclaim the role of a witness just at this time, or as an expert in Japanese. However, I have studied Japanese for a considerable time and when I make the statement that Japanese characters can in many cases, not always but in many cases, be phonetically put into English words with slightly different spelling, I know what I am talking about, as far as that is concerned.

COLONEL STICKNEY: It is understood that all statements being made are not evidence.

MR. WARD: That is correct.

MR. AITKEN: That is correct. That is the explanation to the Commission.

COLONEL STICKNEY: I believe it is well again to postpone action on this particular point, regardless of whether it is a motion to amend, or whether there is a motion, whatever his motion may be. The rights of the accused as set forth in paragraph 5(b) of Letter dated 5 December 1945, General Headquarters, Supreme Commander for the Allied Powers, entitled "Regulations Governing the Trial of War Criminals" heretofore introduced into evidence as Prosecution's Exhibit No. 1 will be read and explained.

MR. AITKEN: The accused shall be entitled:

(1) To have in advance of trial a copy of the charges and specifications clearly worded so as to apprise the accused of each offense charged.

(2) To be represented, prior to and during trial by counsel appointed by the convening authority or counsel of his own choice, or to conduct his own defense.

(3) To testify in his own behalf and have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the commission.

(4) To have the substance of the charge and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

He is further entitled to have his rights read in Japanese, and at this stage we will ask the interpreter to interpret into Japanese the rights of the accused in Japanese.

MR. WARD: If it is satisfactory with the

Commission, at this time the defendant has had those rights explained to him and he will waive the reading of those rights in Japanese.

COLONEL STICKNEY: We want the statement from the accused that he understands what is now going on and we had better have the interpreter here read those again or explain what is now happening here and get the answer from the accused.

MR. WARD: That is satisfactory.

COLONEL STICKNEY: Will you explain to the accused the rights of which we have just been speaking in Japanese?

INTERPRETER SAITO: Shall I read the rights of the accused in Japanese, sir?

COLONEL STICKNEY: Yes.

(Interpreter Saito translated into Japanese the rights of the accused.)

MR. AITKEN: I wish to ask the accused at this time if he thoroughly understands his rights as just translated to him.

THE WITNESS: (Through Interpreter Saito) Yes.

COLONEL STICKNEY: I would like to ask the defense counsel if he has a copy of this procedure for arraignment and plea of the accused, consisting of nine pages.

MR. WARD: I have not, sir. I have gone over it several times and know it fairly well.

COLONEL STICKNEY: On page 6 it prescribes

at the time the chief prosecutor reads the rights of the accused to the accused, the accused, defense counsel, and prosecutor rise and face the Commission. I would like you to do that now.

(The accused, defense counsel, and prosecutor rose and faced the Commission.)

COLONEL STICKNEY: The provisions of sub-section (1) having been complied with, it appearing that a certified copy of the charge and specifications, together with a true and complete translation thereof, were served upon the accused 17 September 1946 and 3 October 1946, whom does the accused desire to introduce as defense counsel?

THE WITNESS: (Through Interpreter Saito) Mr. Ward and Mr. Schauer.

COLONEL STICKNEY: Does the accused wish to have the charge and specifications read and translated to him?

THE WITNESS: (Through Interpreter Saito) It is not necessary.

COLONEL STICKNEY: The charge and specifications will be read to the accused.

MR. WARD: At this time the defense waives the reading of the charge and specifications to the accused.

COLONEL STICKNEY: I think it is proper that you waive the translation into Japanese, in view of what has transpired. However, I believe the charge and specifications had better be read into the record now.

MR. WARD: All right. We waive translation.

MR. AITKEN: (Reading)

"GENERAL HEADQUARTERS

SUPREME COMMANDER FOR THE ALLIED POWERS

"Before the
MILITARY COMMISSION
convened by the
COMMANDING GENERAL,
United States Army Forces,
Western Pacific

"UNITED STATES OF AMERICA

vs

Masao NANJO

CHARGE

"That Masao NANJO, 51J-6585, then a 2nd Lieutenant in the Imperial Japanese Army, on the dates and at the places hereinafter specified, and while a state of war existed between the United States of America, its allies and dependencies, and Japan, did violate the laws and customs of war."

"SPECIFICATIONS

"1. In that Masao NANJO, a member of the Imperial Japanese Army, did, in the vicinity of Sitio Balogo, Barrio Boroboro, and [hacienda] Concepcion, all located within or near Bacolod City, Province of Occidental Negros, Philippines, in or about the month of January, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully permit soldiers under his command to kill Teodoro (Doroy) VERA and to [mistreat, torture, and] kill Juan VILLAS, Filipino civilians, in violation of the laws of war.

9-11-44
"2. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near Barrio Boroboro, Bacolod City, Province of Occidental Negros, Philippines, in or about the month of July, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully permit soldiers under his command to mistreat, torture, and kill Bartolome TORIANO, a Filipino civilian, in violation of the laws of war.

11-9
"3. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near Balogo, Bacolod City, Province of Occidental Negros, Philippines, on or about the 21st day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully mistreat and torture Faustino ALINDOG, and Ricarido ALINDOG, Filipino civilians, and did later, during the same day, at or near Matab-ang, Bacolod City, Province of Occidental Negros, unlawfully kill the said Faustino ALINDOG and Ricarido ALINDOG, in violation of the laws of war.

11-9
"4. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near hacienda Carmen, Bacolod City, Province of Occidental Negros, Philippines, on or about the 18th day of February, 1945, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill Dionisio ANTERA and Francisco VILLASOR, Filipino civilians, in violation of the laws of war.

11-9
"5. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near ~~Cabatuan~~ River, in the

vicinity of Bacolod City, Province of Occidental Negros, Philippines, in or about the month of April, 1945, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully mistreat and torture Tiburcio JONOTA, Gil TANIQUE, Benito MIRIVELLES and Roman DIZON, Filipino civilians, and did, at or near Barrio Magbuyo, Province of Occidental Negros, Philippines, kill the said Roman DIZON and Benito MIRIVELLES, in violation of the laws of war."

At this point, I think it would be proper for me to ask for an amendment to that particular statement, changing the name "Cabanatuan River" to "Cabatangan River." I will make the motion later.

9. "6. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near hacienda Francisco, in the vicinity of Bacolod City, Province of Occidental Negros, Philippines, on or about the 5th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill Dionisio LETOSA, a Filipino civilian, in violation of the laws of war.

10. "7. In that Masao NANJO, a member of the Imperial Japanese Army, did, in or near Bacolod City, Province of Occidental Negros, Philippines, on or about the 8th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill an undetermined number of Filipino civilians, including Felix AMADOR, Felicito ALBA, and Pablo PALOMO, and did, at the same time and place, attempt to kill

vicinity of Bacolod City, Province of Occidental Negros, Philippines, in or about the month of April, 1945, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully mistreat and torture Tiburcio JONOTA, Gil TANIQUE, Benito MIRIVELLES and Roman DIZON, Filipino civilians, and did, at or near Barrio Magbuyo, Province of Occidental Negros, Philippines, kill the said Roman DIZON and Benito MIRIVELLES, in violation of the laws of war."

At this point, I think it would be proper for me to ask for an amendment to that particular statement, changing the name "Cabanatuan River" to "Cabatangan River." I will make the motion later.

9. "6. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near hacienda Francisco, in the vicinity of Bacolod City, Province of Occidental Negros, Philippines, on or about the 5th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill Dionisio LETOSA, a Filipino civilian, in violation of the laws of war.

Grand
"7. In that Masao NANJO, a member of the Imperial Japanese Army, did, in or near Bacolod City, Province of Occidental Negros, Philippines, on or about the 8th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill [an undetermined number] of Filipino civilians, including Felix AMADOR, Felicito ALBA, and Pablo PALOMO, and did, at the same time and place, attempt to kill

vicinity of Bacolod City, Province of Occidental Negros, Philippines, in or about the month of April, 1945, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully mistreat and torture Tiburcio JONOTA, Gil TANIQUE, Benito MIRIVELLES and Roman DIZON, Filipino civilians, and did, at or near Barrio Magbuyo, Province of Occidental Negros, Philippines, kill the said Roman DIZON and Benito MIRIVELLES, in violation of the laws of war."

At this point, I think it would be proper for me to ask for an amendment to that particular statement, changing the name "Cabanatuan River" to "Cabatangan River." I will make the motion later.

9. "6. In that Masao NANJO, a member of the Imperial Japanese Army, did, at or near hacienda Francisco, in the vicinity of Bacolod City, Province of Occidental Negros, Philippines, on or about the 5th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill Dionisio LETOSA, a Filipino civilian, in violation of the laws of war.

Graph "7. In that Masao NANJO, a member of the Imperial Japanese Army, did, in or near Bacolod City, Province of Occidental Negros, Philippines, on or about the 8th day of December, 1944, during a time of war between the United States of America, its allies and dependencies, and Japan, unlawfully kill [an undetermined number] of Filipino civilians, including Felix AMADOR, Felicito ALBA, and Pablo PALOMO, and did, at the same time and place, attempt to kill

Marcos de TOMAS, a Filipino civilian, in violation of the laws of war.

"Dated: 17 June 1946.

"/s/

ALVA C. CARPENTER
Chief, Legal Section
General Headquarters
Supreme Commander for the Allied Powers

"AFFIDAVIT

"Before me personally appeared the above-named accuser this 17 day of June 1946, and made oath that he is a person subject to military law and that he personally signed the foregoing charge, and further that he has investigated the matters set forth in the charge, and that it is true in fact, to the best of his knowledge and belief.

"/s/ Manning D. Webster

Captain JAGS"

"GENERAL HEADQUARTERS

UNITED STATES ARMY FORCES, WESTERN PACIFIC

APO 707

"25 Sept 1946

"Referred for trial to Mr. Thomas D. Aitken, CS, Prosecutor of the Military Commission appointed by paragraph 14, Special Orders No. 218, this Headquarters, 23 Sept 1946.

"By command of Major General CHRISTIANSEN:

"/s/ W. P. Moore

/t/ W. P. MOORE

Lt Col., AGD

Asst Adj Gen."

"I hereby certify that I have served a copy hereof, together with a true and complete translation thereof into Japanese, on the above-named accused this 17 day of

September 1946 and again on the 30th Sept. 1946.

"/s/ Thomas D. Aitken

Pros Atty. - Chief Prosecutor"

MR. AITKEN: If it please the Commission, I might say the two ~~dates~~ of service there were made by me out of, perhaps, excessive caution, because an official appointment appeared at a date later than the original service and I feared there might be some technical objection raised to a service prior to a date of appointment so I served it after the official date.

COLONEL STICKNEY: Does the accused understand the charge and specifications, Affidavit of Accuser, reference for trial and certificate of service which have been read to him?

MR. WARD: He does.

MR. AITKEN: At this stage, I might ask the Commission if this might be a proper place for me to offer a motion to amend that paragraph which states the river's name.

COLONEL STICKNEY: The river?

MR. AITKEN: The river. This was not drawn up by me and I take it from the information that we have, which at no time and in no affidavit uses the name "Cabanatuan" at all, but "Cabatangan," as that place, that whoever drew this up here was thinking of "Cabanatuan" and the names were so similar that he put in "Cabanatuan River," when he really meant to put in "Cabatangan River." I would like to move that the specification be amended to insert the word "Cabatangan" instead of "Cabanatuan."

COLONEL STICKNEY: Any objection by the defense?

MR. WARD: There is no objection by the defense to the amendment at this time. However, due to the circumstances, the defense was unable under the charge as alleged to establish any defense through their investigation. If, perhaps, we need more time in following up the location now given in the amendment, a request at that time may be made.

COLONEL STICKNEY: This is not the only point on which your investigators are still in the field, is that correct?

MR. WARD: That is correct. We are not completely ready as our investigators are still in Negros, and there is an investigator in Japan at this time.

COLONEL STICKNEY: There being no objection from other members of the Commission, the amendment is acceptable and it will be made in Specification 5.

MR. AITKEN: It may be made by interlineation.

COLONEL STICKNEY: That is correct.

MR. WARD: Amended on its face, that is correct.

MR. AITKEN: The prosecution now introduces for incorporation into the record the original charge and specifications, Affidavit of Accuser, reference for trial and certificate of service.

COLONEL STICKNEY: There being no objection, the charge and specifications are incorporated into the record of the proceedings. Is the accused now ready to enter his plea?

MR. WARD: The accused is ~~not~~ ready to enter his plea, your Honor. At this time, we wish to make a motion

for a Bill of Particulars as to certain specifications and additional specifications and to ~~strike~~ certain specifications. At this time I will give a copy of the motion to each of the Commission and I believe that the prosecution already has the copy having previously been given to him.

(Mr. Ward handed copies to the members of the Commission.)

COLONEL STICKNEY: Do you intend to read this into the record?

MR. WARD: No, I believe, if it is satisfactory with Mr. Aitken, that we can give a copy of the motion to the reporter and at that time they can write it in the record. It will save time. Is that satisfactory, Mr. Aitken?

MR. AITKEN: That is right. I thought you were going to furnish some authority **though**.

MR. WARD: No authorities are necessary.

MR. AITKEN: Okay.

(At this point an off-the-record discussion ensued between Colonel Stickney and Mr. Aitken.)

COLONEL STICKNEY: Let it appear that there was a conversation between the President and the prosecutor concerning the furnishing of copies of the charge and specifications to all members of the Commission, which was then done.

Does the prosecution oppose the motion?

MR. AITKEN: It does.

COLONEL STICKNEY: I would like to ask, from the prosecution's standpoint, would it be preferable to have the

motion read?

MR. AITKEN: As far as I am concerned, I have read the motion and I understand it. As it was served on me at approximately mid-day Saturday, and since we have no clerical assistance Saturday afternoons and Sundays, I put in the weekend looking up a reply to it but I have had no opportunity to put it into any kind of writing. I will make an oral reply, however, if it is convenient at this time.

COLONEL STICKNEY: I believe it would be best, since the members of the Commission are seeing it for the first time, in order to know what the opposition is on the part of the prosecution, if the defense will read his motion to us.

MR. WARD: (Reading)

"HEADQUARTERS

UNITED STATES ARMY FORCES WESTERN PACIFIC

WAR CRIMES COMMISSION

"Before the	)	"United States of America
MILITARY COMMISSION	)	vs
convened by the	)	MASAO NANJO
COMMANDING GENERAL	)	
United States Army Forces	)	
Western Pacific	)	

"Motions for the Bill of Particulars as to certain specifications and additional specifications and to strike certain specifications.

"To the Honorable Members of said Commission:

"Now comes MASAO NANJO by his duly appointed counsel, and moves:

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"Motions for the Bill of Particulars as to certain specifications and additional specifications and to strike certain specifications.

"To the Honorable Members of said Commission:

"Now comes MASAO NANJO by his duly appointed counsel, and moves:

"(1) That specifications number One and Two be stricken for the following reasons:

(a) That each of the said specifications fails to charge that the accused had knowledge that such act or acts as alleged were to be committed and he did not prevent or prohibit such act or acts from being committed or that he knew said act or acts as alleged had been committed and either condoned or failed to punish the perpetration thereof.

(b) That each of the said specifications fails to allege whether the alleged crime of the accused was one of commission or one of omission and therefore fails to furnish the accused with such knowledge of the offense charged against him as to place him on notice of what crime or crimes he is alleged to have committed or what act or acts he is alleged to have failed to perform and thus inhibits and prevents him from preparing a defense.

(c) That each of the specifications is so vague, indefinite and uncertain in matters of time and as to identity of the person or persons who committed the alleged offenses; the rank or ranks of said person or persons and the organization or organizations of which he or they belonged.

"(2) That in the event and only in the event that the commission denies the foregoing plea in the above motion that Specifications One and Two be stricken then the accused prays that he be granted and furnished a Bill of Particulars in the respects indicated as follows, to-wit:

(a) The date or dates certain upon which the said offense is alleged to have been perpetrated, for without said date or dates certain the accused is inhibited in organizing his defense, in obtaining and submitting defensive

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matters and indicia, and in promulgating an affirmative defense.

(b) What member or members of the Japanese Imperial Army under the command of the accused actually committed such alleged offense or offenses, and the rank or ranks of said person or persons and the organization or organizations of which he or they belonged.

(c) The way, means and manner that was used in carrying out the alleged criminal act or acts as complained of in this specification, if known.

(d) What law or laws of war have been violated by the act complained of in said specifications and whether the phrase or words 'in violation of the laws of war' refers to an act of commission or to some omission on the part of the accused or whether such phrase or words refer to the act of the actual perpetrators of the alleged crime.

"(3) That Specifications number Five be stricken for the following reasons, to-wit:

(a) That the specification is so vague, misleading, and erroneous in its designation of locality that it fails to place the defendant on notice as to what he stands charge, and thus denies him the right to prepare a defense and to obtain and submit to the commission defensive evidence and testimony to promulgate an affirmative defense.

"(4) That in the event and only in the event that the commission denies the forthgoing motions to strike Specification number Five then the accused prays that he be granted and furnished a Bill of Particulars in the respects

indicated as follows, to-wit:

(a) The date or dates certain upon which the said offense is alleged to have been perpetrated, for without said date or dates certain the accused is inhibited in organizing his defense, in obtaining and submitting defensive matters and indicia, and in promulgating an affirmative defense.

(b) The way, means, and manners that was used in carrying out the alleged criminal act or acts as complained of in this specification, if known.

"(5) That the accused prays as to Specification number Seven that he be granted and furnished a Bill of Particulars in the respects indicated as follows, to-wit:

(a) The definite number of persons alleged to have been the victims of such act or acts, their names, and such other and further identifications as to make certain what person or persons are alleged to have been the victims of such act or acts."

MR. WARD: As to the third motion as it has already been entered by the prosecution and accepted by the defense, at this time we will rescind that motion before the Commission.

MR. AITKEN: Just which one is that, counsel?

MR. WARD: The third, in which it states that Specification 5 be stricken for the following reasons: that it is so vague, because of the river being misnamed.

COLONEL STICKNEY: I didn't get your comment on 5.

MR. WARD: The third motion states that the

indicated as follows, to-wit:

(a) The date or dates certain upon which the said offense is alleged to have been perpetrated, for without said date or dates certain the accused is inhibited in organizing his defense, in obtaining and submitting defensive matters and indicia, and in promulgating an affirmative defense.

(b) The way, means, and manners that was used in carrying out the alleged criminal act or acts as complained of in this specification, if known.

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COLONEL STICKNEY: I didn't get your comment on 5.

MR. WARD: The third motion states that the

fifth specification be stricken, because the place was not named-- the correct place was not named in the specification. It has been already amended and accepted by the defense and therefore to move that count be stricken would be an idle act. Therefore, we withdraw that motion. The rest, however, stands.

COLONEL STICKNEY: You are withdrawing Motion 3. You now have Motions 1, 2, 4, and 5?

MR. WARD: That is correct.

COLONEL STICKNEY: Does the prosecution oppose this motion?

MR. AITKEN: It does and for the following reasons, if I may present them at this time.

COLONEL STICKNEY: Yes.

MR. AITKEN: I wish to state that because of the fact that we had so little time, just over the weekend, to study this motion, in reply to it, that perhaps my presentation won't be as smooth as it might have been if I could have polished it up a little bit, but I think I have sufficient data here to show the Commission there is absolutely no merit to this motion.

In the first place, I want to say that while this is a jurisdiction of its own and is not governed by the procedure of the Tokyo jurisdiction, nevertheless the chief prosecutor is the same in both, and there has been an effort until the last few months, to have stereotyped forms or almost stereotyped, as near as you could do it, without having to put in data relevant to immediate crimes, and in the months of July and August where we had a deadline up

there within which to get in a great number of charges and specifications, prior to August 1st, because there were a great number of prisoners held in jail for a long time awaiting trial who should have been tried, I had occasion to review as being chief of that section -- reviewing section -- about 380 to 400 charges and specifications that were presented against accused. And while we tried to stick, as I say, to a stereotyped form which had been through the battle and fires of **contest** before the various Commissions -- hundreds of them -- originally the specifications contained much more data in them than was deemed necessary. For instance, a specification would allege that the accused on such and such a date and at such and such a place and occupying such and such a position permitted his **soldiers** to **maltreat**, brutally abuse, cruelly handle, so and so. It was decided that such words as "brutally" and "cruelly," et cetera, could be omitted from them, because the evidence showed whether it was brutally or what the degree was. Secondly, that the injured, the victim, was beaten with a pick handle over the back and shoulders and contrary to the laws and customs of war. Well, it was decided then that the beating of a person with a pick handle was not any more brutal or hurt him a bit more than when beaten with a kendo shinai stick, or butt of a gun, or an iron bar; and it wasn't necessary to state more than that he was mistreated by beating him. It was not even necessary, we held, to say "in violation of the laws of war," because he was already charged in the charges as having committed an infraction of the laws of war, so the specifications are cut down to the bare minimum, sufficient

to apprise the defendant of what he is charged and enable him to prepare a defense. In these specifications which are a little fuller than those we used up there, the defendant is given more information and we add "in violation of the laws of war," which, while not necessary, it makes little difference.

Now, in the Yamashita case which we have all heard of, the subject of the charges and bills of particulars was discussed. I want to say I don't know how many of you have read that case, but if you will read the case, you will see that the Supreme Court of the United States used the word "charges" and only talked about the word "charges." It said on such and such a date "charges" of violation of the laws and customs of war were made and at the same time a bill of particulars of 169, or something like that, items were filed with the charges and upon the date of the trial or thereabouts an additional 59 supplementary bills of particulars were filed. Now, if you study the language of that Court, you will see at once that the words "bill of particulars" were used by the Court in the same sense as it used "specifications." The charge was the main thing and the specifications really were the bills of particulars, which constituted a basis of those charges. Here the accused is asking for a bill of particulars to a bill of particulars. Now, here is what the Supreme Court of the United States said and perhaps the language would be clearer than my own: "The Charge. Neither Congressional action nor the military orders constituting the commission authorized it to place petitioner on trial unless the charge preferred against him is of a violation

of the law of war. The charge, so far as now relevant, is that petitioner, between October 9, 1944 and September 2, 1945, in the Philippine Islands, 'while commander of armed forces of Japan at war with the United States of America and its allies, unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people of the United States and of its allies and dependencies, particularly the Philippines; and he . . . thereby violated the laws of war.'"

The charge in this case, a little simpler but equally as good, says that "Masao Nanjo, then a second lieutenant in the Imperial Japanese Army, on the dates and at the places hereinafter specified, and while a state of war existed between the United States of America, its allies, and dependencies, and Japan, did violate the laws and customs of war." I might call attention to the fact at this time that the laws and customs of war are not a written code and it is a very difficult thing for anyone drawing up charges to say that such and such a section or such and such a custom of war was violated.

Now, to go on with the Supreme Court, in the next paragraph: "Bills of particulars, filed by the prosecution by order of the commission" --

MR. WARD: Excuse me. What page are you reading from?

MR. AITKEN: It is 5 in my copy. I can't say these copies run the same.

MR. WARD: It looks like the same.

MR. AITKEN: (Continuing reading) "Bills of particulars, filed by the prosecution by order of the commission, allege a series of acts, one hundred and twenty-three in number, committed by members of the forces under petitioner's command during the period mentioned. The first item specifies the execution of 'a deliberate plan and purpose to massacre and exterminate a large part of the civilian population of Batangas Province, and to devastate and destroy public, private and religious property therein, as a result of which more than 25,000 men, women and children, all unarmed noncombatant civilians, were brutally mistreated and killed, without cause or trial, and entire settlements were devastated and destroyed wantonly and without military necessity.' Other items specify acts of violence, cruelty and homicide inflicted upon the civilian population and prisoners of war, acts of wholesale pillage and the wanton destruction of religious monuments."

Now, I call attention to the fact that in that specification called by the Court "a Bill of Particulars," to say that it requires the naming of the 25,000 people -- men, women, and children -- who were massacred would be a ridiculous proposition -- a ridiculous requirement -- and I take it that if the Court found instead of 25,000 who were killed or massacred only 15,000 were massacred or killed, the man would be just as guilty; or if only 10,000 were killed or massacred, he would still be just as guilty.

The Court further said: "It is not denied that such acts directed against the civilian population of an occupied

country and against prisoners of war are recognized in international law as violations of the law of war. Articles 4, 28, 46, and 47, Annex to Fourth Hague Convention, 1907, 36 Stat. 2277, 2296, 2303, 2306-7. But it is urged that the charge does not allege that petitioner has either committed or directed the commission of such acts," --- one of the criticisms offered this morning here -- "and consequently that no violations is charged as against him. But this overlooks the fact that the gist of the charge is an unlawful breach of duty by petitioner as an army commander to control the operations of the members of his command by 'permitting them to commit'"--- which is alleged to be in our specification here --- "the extensive and wide-spread atrocities specified. The question then is whether the law of war imposes on an army commander a duty to take such appropriate measures as are within his power to control the troops under his command for the prevention of the specified acts which are violations of the law of war and which are likely to attend the occupation of hostile territory by an uncontrolled soldiery, and whether he may be charged with personal responsibility for his failure to take such measures when violations result. That this was the precise issue to be tried was made clear by the statement of the prosecution at the opening of the trial.

"It is evident that the conduct of military operations by troops whose excesses are unrestrained by the orders or efforts of their commander would almost certainly result in violations which it is the purpose of the law of war to prevent. Its purpose to protect civilian populations and prisoners of war from brutality would largely be defeated

if the commander of an invading army could with impunity neglect to take reasonable measures for their protection. Hence the law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates."

Now, of course, in this case they were talking of a general **overall commander** of troops, but the principle is exactly the same when applied to a sergeant or lieutenant sent with a number of troops anywhere from 6 to 100 on a patrol. He is in charge of that operation and he is in charge of all those men under him and his duty is just as great to restrain the actions of those men and keep them within the bounds that decent soldiers are required to keep as it is of a commanding general over an entire field to see that his subordinates who are, of course, of greater rank than this lieutenant would be, required to observe the rules and laws of war. It is only a difference in degree -- one is a high commander, the other is a lieutenant; one has command over an entire army corps and an area that he is taking possession of, and the other has command of his unit, whatever the size is and the area of which he is required to inspect or raid or whatever it might be.

"These provisions plainly imposed on petitioner, who at the time specified was military governor of the Philippines, as well as commander of the Japanese forces, an affirmative duty" --- and notice that --- "affirmative duty to take such measures as were within his power and appropriate in the circumstances to protect prisoners of war and the civilian

population. This duty of a commanding officer has heretofore been recognized, and its breach penalized by our own military tribunals."

In the notes forming a part of this decision, it said, "It nonetheless found that petitioner had not taken such measures to control his troops as were 'required by the circumstances.' We do not weigh the evidence. We merely hold that the charge sufficiently states a violation against the law of war, and that the commission, upon the facts found, could properly find petitioner guilty of such a violation."

"Obviously," the Court goes on to say further on, "charges of violations of the law of war triable before a military tribunal need not be stated with the precision of a common law indictment." Citing the case of Collins versus McDonald, already cited above. "But we conclude that the allegations of the charge, tested by any reasonable standard, adequately alleges a violation of the law of war and that the commission had authority to try and decide the issue which it raised." So much for that part of the Yamashita decision. There is another paragraph to which I want to call the Commission's attention.

MR. WARD: Will you specify the paragraph, Mr. Aitken?

MR. AITKEN: They are not numbered, but it is the third paragraph from the end.

MR. WARD: What page?

MR. AITKEN: It is 11 of mine.

"The Commission said: 'Where murder and rape and vicious, revengeful actions are widespread offenses, and

there is no effective attempt by a commander to discover and control the criminal acts, such a commander may be held responsible, even criminally liable, for the lawless acts of his troops, depending upon their nature and the circumstances surrounding them."

As a clarification of the understanding of what the Supreme Court was saying in its decision in chief I will quote a paragraph from Justice Murphy's dissenting opinion:

"The petitioner was accused of having 'unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes.' The bills of particular further alleged that specific acts of atrocity were committed by 'members of the armed forces of Japan under the command of the accused.' Nowhere was it alleged that the petitioner personally committed any of the atrocities, or that he ordered their commission, or that he had any knowledge of the commission thereof by members of his command."

Now, the motion asks a bill of particulars and asks the dismissal of the first two specifications here, because it does not allege the petitioner personally committed any of the atrocities or ordered the commission or had any knowledge of the commission thereof by members of his command. So that question was considered as specifically decided in the Yamashita case and I take it that with all due reference to this Commission, it would be very reluctant to reverse the Supreme Court of the United States in a matter of that kind.

In our letter of December 5, under the subject, "Jurisdiction," paragraph 2(a), we find first that the "Military

Commissions appointed hereunder shall have jurisdiction over all persons charged with war crimes who are in the custody of the convening authority at the time of the trial."

"(b) Violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment, or deportation to slave labor or for any other purpose of civilian population of or in occupied territory."

In the Rules of Land Warfare, it is provided under the Hague Convention that the military forces having jurisdiction by occupation or conquest of enemy territory, section 299, "Must respect persons, religious convictions, etc. --- Family honor and rights, the lives of persons, *** as well as religious convictions and practice, must be respected."

I think that ought to be sufficient to answer the motion that is on file here and I will submit it with that.

COLONEL STICKNEY: Does the defense wish to argue the motion?

MR. WARD: The defense certainly does. The defense counsel and assistant defense counsel certainly do.

The prosecution made a very, very nice statement as to a general demurrer to the specifications and the charge herein. In fact, the first half of his argument spoke completely of the motion as to the charge. There is nothing in the motion of the defense as to the charge. There is no motion to strike the charge. Therefore, that part of his argument can be completely disregarded.

He made a very fine final argument, stating that the case upon completion would have to meet such and such requirements and he cited the Yamashita case; in fact, he read

the very sections that I had used, part of them anyway, that I had used to base two of my motions of the defense. Therefore, as to the charge, the first part of Mr. Aitken's review is immaterial and I won't contest it because there is no motion to strike the charge.

He mentioned that they omitted the adjectives "cruelly beaten," etc. There is nothing in the motion going into "cruelly beaten." He mentioned in great part as to his experience in what is happening in Tokyo. In fact, he stated originally they made much more specific bills of particulars to the charges, but due to the fact that they were hurried and had too many men in court, they had to cut them down. We have to take his word for the fact that they have that situation; I do not doubt it. However, they have cut them down so badly that the defense on reading these specifications, and assuming the defendant is innocent until proven guilty, especially in these charges, wherein it is merely "permitting," the defense has no possibility in reading these specifications to find what the acts were. They say some members under his command --- just for example, say the defendant was in the hospital at that time or was relieved of his command or had been transferred, what possible chance has the defense in reading these specifications, assuming the innocence, that he was not the head of the group at that time? We don't deny the actual atrocities in many instances were committed. We are stating that my client is not responsible therefor. For some reason he was not there. He reads the specification. He hasn't a prayer of forming an affirmative defense or getting sufficient information to make a good

cross-examination of the prosecution's witnesses to establish any sort of an investigation.

We have investigators now in Negros where these atrocities were alleged to have been committed. Our investigators do not know what to investigate when reading these specifications. The prosecution is right -- they have cut them down to the bone, making them practically useless. Therefore, he is not put on notice in that alleged incident so that he can develop an affirmative defense. That is the basis of the motion of the defense. And it is quite interesting to note that when the cases originally were laid down and the specifications originally drawn, they were drawn to put the defendant on notice. Now, because of a rush they are not doing so and they are forming a line equivalent to the Ford factory and pushing these things right on through, not giving the defendant any type of defense -- stereotyped forms to sacrifice a man's life.

Mr. Aitken very neatly avoided answering several of the parts of each motion in the main motion of the defense. For instance, he covered 1(a) reasonably well except that he said it was not necessary to allege in the specification as to whether the defendant condoned or failed to punish the perpetrators thereof. He stated that "by omission" was not necessary. As to 1(b) he didn't cover it at all. He just said the specification failed to allege whether it was omission or commission of the crime and he cited the Yamashita case and he read it. I don't know why he was reading it, because it says in the reverse in the paragraph which Mr. Aitken formerly read (for your information, Mr. Aitken, it is page 6 on your copy, the very top of the page).

He states it did not say whether the defendant was charged with omission or commission. It does just that. It states that, starting on the bottom of page 5, as given by the Court -- this is what the specification read, in charging Yamashita: "A deliberate plan and purpose to massacre and exterminate a large part of the civilian population," etc. In doing that they stated he did promulgate a plan of devastation. Therefore, he is put on notice that this is a charge of commission. You know this is not as the specification charged here. Here it does not state a cause of action, and I believe that under my first motion, 1(b), that the charge does not state a cause of action and therefore should be struck from the list of specifications.

The motion 2(d) did cover approximately the same point, stating the specification would have to be amended.

Mr. Aitken very deftly left from covering 1(c) of the motion, in that the specifications are so vague.

The main objection in many of these, in 3, I believe, of the specifications, is there is not a definite time. If you are reading the Yamashita case, it states on such and such a date these acts were committed. There is no such and such a date here. It says on or about the month -- in Specification 1, on or about the month of January; Specification 2, on or about the month of July; Specification 5, on or about the month of April. The Commission in this instance having gone through several of the Negro cases and being familiar with the affairs on Negroes during these times, will note that during the months of March and April there was an American invasion and at that time commands were shifting considerably on or about the month of April. What

chance do you have in proving any specific date or proving any sort of defense? It is not specific. The prosecution often, by the way, puts a witness on the stand later and comes forth with a specific date. We will see what happens in the course of this trial. In or about the month of January and July, as in the first two specifications, the same situation is prevalent in these cases, charging the high commanding officer. You know exactly what his area covered during those dates. You have a channel of command which states that at such and such a time he was head of this island and it was well recognized and easy to be proved or disproved during those dates. And they can in so charging a commanding officer be able to set down a ruling like that, but in these instances you are not charging a commanding officer. You are charging a second lieutenant. Often he is the head of a number of men, sometimes the head of a platoon, sometimes just a squad, or up in the hills where he was merely acting as a guard of a reservoir to save the water. During those times their duties are changed rapidly. How are you going to allege an offense not committed by the defendant but committed by some men over whom he is supposed to be commanding officer of a little outpost, when you get on or about the month of January or February? There is nothing there that would put the defendant on notice as to when the offense was committed.

As to the members of the command, which is another of the sub-sections on Motion No. 2, I believe, yes, 2(b) is asking for an amendment to the bill of particulars. This is not to strike. Mr. Aitken cited the Yamashita case again and it is very interesting to note that in the

statement of the Yamashita decision it mentions that more than 25,000 men, women, and children, all unarmed, noncombatants, were brutally mistreated. It states that those people, the names of those 25,000 were not named. In fact, if you remember the time given to the case of Yamashita, the period and length of time, it is quite obvious that the names of those people were brought out and, in fact, the prosecution will admit that time upon time when no names are given at all, but merely several Filipinos or Americans were killed, that their answer to that charge was there were two named, anyway. That puts you on some notice. In these cases, especially in the Yamashita case, they were willing to take it up to the Supreme Court. That case was laid out pretty well and it was a good job of investigation. Herein it looks very similar as if a well uninformed investigator laid down the various affidavits. In fact, it is so obvious on its face that they collected a lot of affidavits and spelled the name "Nanjo". Mr. Aitken is leading us to believe that in many affidavits, fifty per cent of them, they have either another defendant, "Nanjo" or they have done a very bad job of investigation. If you will notice, there are Tanakas upon hundreds; Takahashi's, several of them -- in fact, my interpreter is named Takahashi. They just tried a Captain Takahashi the other day. These last names are very prevalent. It seems that if you look through the roster or try to get a prisoner out of LUPOW, if you don't cite the first name, last name, and number, they write back and say, "We have hundreds of last names here. What are we to do?" This is another job of poor investigation. The case has been thrown together,

charged very generally, so that **its** obvious omissions have not been covered and they can start putting several witnesses on the stand and state, "We will throw the book at you; see if you can get out of it." No notice at all. Another example of that last statement was even in writing up the 5th specification, which was amended, they not only put in the wrong name of the river -- there is no such river down there -- in fact, it happens to be a river in central Luzon. But, in completing Specification 5 they charged Barrio Magbuyo. It so happens you can't find a map with that barrio on it. It happens the wrong name of the river was given. We are at a complete disadvantage. They don't even put the city which this barrio is a part of, and you will notice in the rest of the specifications, in every specification for which you have probably had to rule on in the past, they always put in an adjacent city, because these barrios may be only a couple of blocks. Somebody informed me the other day that this barrio is some 20 kilometers from the city of Bacolod. Again, it was thrown together. It is the basis of my motion that the defense has not been put on notice as to what charges the prosecution is going to bring against them.

You will notice the motions to strike are 1, 2, and 5. We have already waived the motion to strike on 5. It is not the purpose to put the Commission and Mr. Aitken, the prosecutor, "on the spot." We are only trying to get a square deal and be put on some sort of notice. Therefore, the motion still stands to strike or amend, at least to amend, so that we are put on some sort of notice.

As to the 5th and 7th, we merely ask a bill of

particulars on it, to show us what is being charged in the various specifications as set forth, which were not even covered by Mr. Aitken in his argument. You may eventually read the transcript in this case to find that out but I believe with the oral argument of the defense you can see what the general demurrer would be which did not cover the bill of particulars.

COLONEL STICKNEY: Any further argument by the prosecution?

MR. AITKEN: Just an observation or two. Counsel, I think, rather inadvertently misquoted me when stating that I had stated that the form of charge and specifications had been cut down, because of a great hurry, and so forth. Nothing of the kind. I did not say anything of the kind. If I did say it I did not intend to convey that idea. What I did say was that of hundreds of cases, etc., starting in with a more liberal form in the beginning and gradually as time went on and cases were tried the specifications were cut down to a bare sufficiency, in that all legal verbiage, unnecessary allegations, for instance, as I pointed out, an allegation that a man was beaten on the head with a stick, when, as a matter of fact he was beaten over the back with a rifle butt. It doesn't make any difference if he was beaten on the head with a stick, if he was truly killed at the time, he was killed just as well with a stick or a rifle butt. It isn't necessary to say it and those specifications have been cut down and boiled down by especially not only those who drew them up but as created and caused by actions of commissions who have passed and ruled on these by the hundreds. And when I say this form of specification and charge used here is a more

liberal one even then the one that has passed muster as sufficient in Tokyo, then it is all to the benefit of the defense here, if he requires that benefit. On the other hand, we must not lose sight of the fact that this is a bill of particulars. It makes no difference whether you call it charges or specifications or items or series of actions, which was the expression used ^{by} ~~the~~ _{RCS} the Supreme Court in the Yamashita case. There is one charge and a large series of acts alleged, which constitutes the bill of particulars to that charge. So it makes no difference at all. On the other hand, there is a catch-all provision that has been used constantly, consistently in all of these charges, where individuals' names are not known. Where atrocities have been committed against a large number of people, it has been sufficient to allege that the accused within a certain time and place, within a certain area, either permitted or committed himself or permitted others to commit atrocities on a large number of civilians, in violation of the laws and customs of war. And often during the trial of those actions many names creep in of persons who individually have been abused, whose names were not known at the time, but who were included in that catch-all provision. As to commenting on each individual paragraph of the motion, I did not deem it necessary; I don't deem it necessary at this time.

COLONEL STICKNEY: Anything further from the defense?

MR. WARD: One final word, sir. Mr. Aitken covered

again the rifle butts I mentioned in the first part of my argument. I am not arguing that point. That is unnecessary. That comes out with the witnesses. That point has not been argued by me. I stated that there was no argument at all to cover several points of the motion. Mr. Aitken now says he does not think it was necessary. That was an admission he could not find anything to cover them. He makes a flat statement and states that this type of specification is a "catch-all specification," and is "sufficiently alleged" and says for my benefit that "sufficiently alleged" has been done hundreds of times. That is merely a statement. As you can see, he has no authority. I have given you authority where the defendant has not been put on notice.

COLONEL STICKNEY: The Commission will retire to consider the motion.

(The members of the Commission retired for an executive session.)

MR. AITKEN: After these short recesses, would you like the record to show the same as after reconvening? Some of the Commissions don't want it and some of them do.

COLONEL STICKNEY: I don't think it is necessary at this time.

The Commission is in open session. The motions of the defense counsel for striking certain specifications and for bills of particulars in certain specifications, and additional specifications, are denied.

MR. WARD: At this time do you wish the defendant to put in his plea, sir?

COLONEL STICKNEY: Masao Nanjo, will you rise at

this time?

(The accused rose.)

COLONEL STICKNEY: At this time the Commission will hear your plea to the original charge and specifications which have been incorporated into the record of the proceedings. You may plead either GUILTY or NOT GUILTY.

MR. WARD: The defendant pleads NOT GUILTY.

THE WITNESS: (Through Interpreter Saito) NOT GUILTY.

COLONEL STICKNEY: Not guilty. Are prosecutor and defense counsel ready to proceed with the trial of the accused?

MR. AITKEN: The prosecution is ready.

MR. WARD: The defense is ready to proceed with the trial, with the exception we may recall any of the prosecution witnesses for cross-examination that we feel necessary upon the return of our investigators from Negros and from Japan on receiving reports therefrom. Our investigation to that extent has not been completed, mainly due to lack of transportation and adequate communication facilities. However, we are ready to go ahead at present.

COLONEL STICKNEY: Do you have any knowledge of when all those investigations will have been completed?

MR. WARD: No. As to the case against the present defendant?

COLONEL STICKNEY: Yes.

MR. WARD: I hope to have sufficient knowledge before the end of this trial, which I assume will last approximately ten days.

COLONEL STICKNEY: You think you may not get some of it for almost ten days yet?

MR. WARD: That is correct. We have had no information at all from the investigator in Japan and due to the fact that Specification 5 was recently amended, the first plane out this morning took the amendment to our investigator in Negros and he will not even receive the notice of that amendment until this afternoon sometime.

COLONEL STICKNEY: Anything from the prosecution on this?

MR. AITKEN: The prosecution, I think, in accordance with the Commission, is willing to grant every possible opportunity to the defense to put on a defense to the best of its ability and nothing technical of that kind will meet with any objection here. But, as far as the time is concerned, that is very largely in the discretion of the Commission and I will defer to the discretion of the Commission with reference to the time matters.

COLONEL STICKNEY: Both sides being ready, the Commission will proceed with the trial of the United States of America against Masao Nanjo, and if no member of the Commission objects it will be with the understanding that the cross-examination of any witness may be carried up again, as a result of information which may in the future come to the defense through their investigators now in the field.

MR. AITKEN: At this time, would it be proper if I called a witness to substantiate the statement that I made here with reference to **pronunciation**. I notice that vital documents in this trial -- that is, the charge and

specifications -- spell the witnesses' name "Nanjo" which probably would be the way it is spelled most of the time.

COLONEL STICKNEY: I believe this will be a good place to clear that point up. Do you wish to put the witness on the stand?

MR. AITKEN: I would like to call one witness on the stand -- Lieutenant Nakamura. Lieutenant Nakamura, take the stand please.

LIEUTENANT JAMES NAKAMURA

a witness for the prosecution, having been first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A James Nakamura.

Q Your official position?

A Court interpreter.

Q Your age and residence?

A Age 27, residence APO 75.

Q When you said "Court interpreter" you meant interpreter in the Japanese language?

A Yes.

Q You are thoroughly familiar with the Japanese language?

A I interpret it in the courts here.

Q And you have been doing that for quite a while?

A A couple of months, yes.

Q But you have been talking, how long, talking Japanese all your life?

A Yes, I have been talking all my life.

Q Now, the word Nanjo is a Japanese name, is it not?

A Yes, it is.

Q And ordinarily would be represented by certain Japanese characters?

A Correct.

Q When translating phonetically into the English language, would it be correct to spell the English N-A-N-J-O?

A Yes, that would be one way of spelling.

Q And would it be correct to spell it N-A-N-J-Y-O?

A Yes, I would say it would be correct to spell it N-A-N-J-Y-O.

Q Would that be on the same theory that if an English name Smith, Smithe, Smyth,, were asked to be translated into the Japanese language that those three names would be recognized by the same characters.

A Yes.

MR. WARD: Objection, that is not a proper question in this case, it is not a proper pronunciation, you don't pronounce Smythe at all times.

MR. AITKEN: I did not say Smythe -- I said Smyth and I said I said Smithe, but I carefully did not say Smythe.

MR. WARD: By omitting the Y with Smythe it is also Smith.

COLONEL STICKNEY: What do we have now, an objection?

MR. WARD: An objection as to the -- well, I believe it is not a correct question to ask an expert as quoting the pronunciation of an English name.

MR. AITKEN: The question was put as an illustration of what the former statement was.

MR. WARD: I will withdraw the objection -- he can answer. The answer was yes, was it not?

MP. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. WARD:

Q You said that the pronunciation of Smith, the various forms as given by Mr. Aitken, is a reasonable interpretation, to say that Nanjo and Nanjyo would be an equivalent illustration -- is that correct?

A Yes, for this reason that any impression of letters in the English alphabet which end up with a pronunciation Smith would still be written Smitzo in the Japanese language.

Q Would that be a two syllable word?

A Three. In the same manner in transposing Japanese pronunciation into English translations, we can use various translations which are approximate of Japanese. Whereas in many times it is rather difficult to get English into Japanese pronunciations.

Q You said in writing the Japanese symbol for Smith it would be three different groups of symbols, is that correct?

A Yes.

Q "Nanjo" would be two?

A Two.

Q Have you ever seen the word Nanjo?

A Just a minute, I made a mistake in that last. Nanjo is actually four series of Japanese letters depending on the type of letters, characters, or sylograms that you use.

Q But they are in two groups, are they not?

A They would be in two groups, not necessarily groups, I mean two characters would be employed if we used Chinese characters to write these.

(Mr. Ward shows something to the Court) This is what I showed the witness.

A There are various ways of writing Nanjo in Japanese, one way of using Chinese characters in which case two characters would be used, then you can use the Japanese sylograms in which case four symbols would be used, they would not be symbols, they would be sylograms rather than characters.

Q How would you pronounce Nanjyo?

A Nanjyo.

Q In other words, you would sound the "n" like a Spanish "n", is that correct?

A No, I don't think so, I think it is just as given in English.

Q Would you say Nanjyo? There is a more nasal "n" is that correct?

A Well, it depends on what particular area you come from. In Japan, some pronunciation is nasal and some is not.

Q They could though pronounce it Nanjyo?

A In places, yes.

Q Now, if you added the "y" immediately after the "j", it would still be Nanjo, in many places in Japan would it not?

A Well, if you have the "j" in front of the "y" -- you see the point, in Japanese, they do not use English alphabet for writing the names, therefore, the English alphabet is transposed phonetically.

Q Say that you heard the word Nanjyo with that nasal "n", would you not spell it Nanjyo using the phonetics for your English language?

A No, I would not.

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Q Say that you heard the word Nanjyo with that nasal "n", would you not spell it Nanjyo using the phonetics for your English language?

A No, I would not.

Q You would still pronounce Nanjo as Nanjo, is that how you would spell it?

A May I have that question over again?
(Last question read by reporter.)

A No, I would spell that Nanjyo?

Q I don't mean Nanjyo, I mean Nanjo that nasal "n". There is a difference -- you stated in many districts in Japan that they pronounced the Spanish "n".

A I don't know what the Spanish "n" is.

Q That more nasal "n".

A Regardless of how the different accents or ways of pronunciation in Japanese are, Nanjo would be N-A-N-J-O to me.

Q But there would be many changes according to which island or which district you came from in Japan, is that correct?

A Here is the thing -- the combination of two Chinese characters which form the pronunciation Nanjo in Japanese, that is always Nanjyo regardless, that would not be pronounced Nanjyo anywhere in Japan.

Q But now say you use the Japanese letters, when would these various differences in the pronunciation Nanjo take place?

A You mean the second "n"?

Q That is right.

A I was referring purely in my pronunciation of the "n". There are places where they have a sort of nasal "n" in Japan. However, the fact the "n" may be pronounced nasally does not exclude the pronunciation of that "j" which follows the "n".

Q Nanjo means what in English?

A Frankly, I don't know.

Q Would it be correct to say that Nanjo means "southern strike" or "difficult passage" or "hard place to pass", would that be correct?

A Well, I would not want to commit myself on that.

Q I see, Nanjyo would mean what in English?

A It just depends upon the particular way it happens to be written.

Q It could mean southern seas, could it not?

A Yes, it could.

Q And have you ever seen the name "Nanjyo" spelled anywhere in English like that -- have you ever seen it before?

A No, I have not.

Q Have you ever seen "Nanjo" spelled in English before?

A No, I haven't.

Q At this time, you are unwilling to say that both of those would be correct, is that it?

A I am willing to say it can be spelled in either way.

As a matter of fact, the two Chinese characters which form the word "Nanjo" I would say pronounced phonetically would be more correct spelled "Nanjyo" rather than "Nanjo" simply because we don't lengthen the "o". When we have an ending in "o" of that nature, it is actually a very long "o" which follows the "j" you see.

Q In other words, there would be a difference in sound if you put that "y" in?

A "y" in?

Q It would make it a longer "o"?

A I don't think that "Nanjo" approximates the Japanese language.

Q Therefore, you would say that "Nanjyo" would be the correct spelling at any time?

A No, I would not say that, I would say that phonetically it would be more correct. There is a Japanese system they call the Hepburn system which is accepted. However, there are many occasions where Hepburn, I would say, where Hepburn is dispensed with in Japanese for phonetic spelling.

Q At this time, you would state then, that your original analogy, although you used different symbols than used in writing, the word Smith and word Nanjo would be a good analogy even though the meaning might be different. In fact, at this time you are willing to state you do not know what the meanings of the words are and that there are different amounts for symbols used in the two words -- and that you have never seen the word used before you are still willing to say that this is a good analogy, is that correct?

A Yes, I am perfectly willing to say so.

Q And in addition to that you admit that in different places you use that longer "n" depending where you are in Japan that Spanish "n" that nasal "n"?

MR. AITKEN: He said he did not know anything about the Spanish "n".

MR. WARD: All right, the nasal "n" that with the "y" in the word Nanjyo it is a longer "o" than if the "y" were omitted, and you still say it is a good analogy?

A Certainly I do, because in transposing the pronunciation in one language to another you have to use the particular forms of pronunciation employed in translation and you cannot say, I mean in two different languages, there are certain pronunciations or certain ways of pronunciation which cannot

be approximated. In another language, not necessarily, but I mean cannot be gotten out exactly, and therefore, must be approximated and there are several ways of approximating those.

Q In other words, in your analogy you are approximating one to the other, is that correct?

A That is right, in transposing the Japanese language to the English alphabet that is all you can do.

Q In other words, that, instead of being a good analogy, is now an approximate analogy, is that correct?

A I say it is a good analogy now.

Q It is not, or is an approximate analogy?

MR. AITKEN: Do you understand the question, I don't myself?

A I don't follow what he is trying to get at.

Q In one instance, the witness is saying this is good analogy -- and then later he says it is an approximate analogy. I am wondering what kind of an analogy it is.

COLONEL STICKNEY: The Commission will recess and will reconvene at 1300 hours.

(Short recess)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the accused with his personal interpreter, the reporters, and two interpreters who have come into court since this morning's session, are now here. They have not been sworn and I would like to administer the oath to them.

(Filomena Zosa and Pedro Genoves were duly sworn as interpreters.)

MR. AITKEN: At the close of the session Lieutenant Nakamura was on the stand under cross examination.

MR. WARD: I believe that this witness has brought out all points intended to show as to the discrepancies, the meaning of the word, syllables, pronunciation, and the various pronunciations in the different parts of Japan, and at this time I will turn the witness back over to Mr. Aitken for redirect examination.

MR. AITKEN: That is all, thank you, Lieutenant, unless the Commission has some question.

COLONEL STICKNEY: Any Commission member wish to ask anything of the witness? Apparently not. The witness may be excused.

(Witness excused.)
MR. AITKEN: In order to have it clearly before the Commission the motion is that it be the order of the Commission that all official papers heretofore filed in this

case which are spelled N-a-n-j-o or N -a-n-j-y-o and any affidavits which are spelled either N-a-n-j-o or N-a-n-j-y-o be ruled as referring only to the defendant in this case, a Japanese, who because his name is clearly written in Japanese characters and those characters may be correctly phonetically interpreted into English N-a-n-j-o or N-a-n-j-y-o that the spelling in either way is correct and refers only to the defendant -- that is the motion.

MR. WARD: At this time to make it more clear, I would like to ask Mr. Aitken if he has any other affidavits other than the one by Leopoldo Agravante, other than the affidavit of this Agravante that he wishes to put before the Commission with the name spelled N-a-n-j-y-o?

MR. AITKEN: We have no other affidavits but there is the possibility of an affidavit by a man named Lauro Mariano. We expect to have him in person in court, as a matter of fact, I have been informed that he had come to Manila as a witness, but I find that he is not out at the Witness' Camp so I have instructed the office to get ahold of him, but Lauro Mariano's statement is in the record.

MR. WARD: Did you say in the record?

MR. AITKEN: No, it's in our record -- his statement is in our records and it may be that I would have to offer that statement in place of the witness, I don't know, and in that record the name N-a-n-j-y-o is the name used and I would like to state at this time that as far as all our affidavits and records are concerned they were taken by one investigator, Lieutenant Ross, who consistently

used the spelling N-a-n-j-y-o.

MR. WARD: In other words, the argument as it boils down is to whether the prosecution could enter one or two affidavits with the misspelling of the defendant's name. He is very uniquely using this argument as the main argument. It happens to be perhaps a very minor one. In these affidavits the prosecution is going to present against the defendant there is practically no other identification, and that is the reason for, what the prosecution wishes to call quibbling on my part, with the expert witness on the stand. His main purpose is to enter two affidavits which do not identify this defendant and have a misspelled name in addition thereto, which if you remember the testimony of the expert witness, may be different.

This expert witness admits in this one part of the island he is not familiar with the dialect having been taught, I think, in the ones around Tokyo. Therefore, there may be a discrepancy and a very likely one in the southern dialect. If there was further identification in these affidavits you would have no word from the defense, but when you have a misspelling which may be two different people in addition to the fact that there is no further identification except in a very general way which one would describe ninety-nine and nine-tenths of the Japanese given as follows: "He was about 25 years old, 5 feet 4 inches, 120 pounds, white complexion, black hair, parted, military bearing," means nothing. He was shown no picture, at least not given in the affidavit. Therefore, what the prosecution is trying really to do is to get one or two phoney affi-

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devits into the record and using the guise of misspelling as the main argument to do it.

MR. AITKEN: I only have one observation to make -- I don't know anything about phoney affidavits.

MR. WARD: I said "may be."

MR. AITKEN: But there isn't any question of misspelling at all, and it is not admitted by the prosecution as misspelling. In other words, the Japanese characteristics stated by the witness -- as spelled by the witness - might be spelled N-a-n-j-o or N-a-n-j-y-o, and either spelling is perfectly correct.

MR. WARD: Except, of course, that it was not put in the specification as charged, he was charged N-a-n-j-o and there was no alias put down and they had aliases -- fifty per cent of them largely -- did he have two N-a-n-j-o's in there or one and now they are trying to put them down in sort of a fishing expedition.

COLONEL STICKNEY: I would like to ask the chief prosecutor if Agravante is going to appear as a witness?

MR. AITKEN: We have not been able to locate him -- he is the only one we could not locate.

COLONEL STICKNEY: Unless objected to by other members of the Commission, action on the motion is deferred for the present, and we would like the prosecution to go ahead with the presentation of their case.

MR. WARD: At this time could we have two other Japanese that are waiting outside to be seated with the defendant for purposes of identification brought in? It

has already been discussed with the President of the Commission and Mr. Aitken, and I believe there is no objection at this time from the prosecution.

COLONEL STICKNEY: I don't understand what you are asking.

MR. WARD: I wish that two other Japanese be seated with the defendant.

MR. AITKEN: I have no objection -- he may have as many as the Commission thinks he may have.

COLONEL STICKNEY: Unless objected to by other members of the Commission it is permissible for those other Japanese to come and sit with the accused and his interpreter at the bench here so that any identification of the accused by the witnesses may be made more sure.

MR. WARD: Is that satisfactory?

COLONEL STICKNEY: Yes.

MR. AITKEN: Please call them because I have witnesses here.

MR. WARD: They will be here in just a minute.

COLONEL STICKNEY: You are going to want them to sit more or less continuously, is that correct?

MR. WARD: That is correct, if I may have them.

COLONEL STICKNEY: It is understood that neither of these people is going to appear as a witness in the case?

MR. WARD: That is correct.

DEMETRIA VILLAS

a witness for the prosecution, being first duly sworn, testified as follows through Interpreters Zosa and Genoves:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Demetria Villas.

Q Your age?

A Thirty-one.

Q And your address?

A Granada, Bacolod, Sitio Balogo, Occidental Negros.

Q How close is your residence to the city of Bacolod?

A About twelve kilometers.

Q What is Balogo?

A A farm.

Q Is Balogo also a sitio?

A Yes.

Q And what is the barrio to which it is a sitio?

A Granada.

Q Where is **Boroboro** with reference to Balogo in Granada?

A **Boroboro** is a different place than Balogo and Granada.

Q Do you remember an event taking place there on 15 July 1944?

A Yes.

Q Did you know at that time one Bartolome Toriano?

A I don't know anything about Bartolome Toriano.

COLONEL STICKNEY: I would like to call the Chief Prosecutor's attention to the fact that the man named appears to be in Specification 2 and the witness is in on Specification 1.

MR. AITKEN: I am in error, and I would like to delete that because I had the wrong paper in front of me at the time. I would like to delete the question about July 15, 1944. I want to ask you --

Q If you were there at the Barrio Balogo near Bacolod on January 16, 1944.

A Yes.

Q Did you know a Juan Villas?

A Yes, he is my father.

Q Now, did you know also a person known as Doroy?

A Yes.

Q Do you remember what Doroy's real name is -- full name?

A I don't know his real name, but he is called Doroy.

Q Now, do you remember an incident that took place there with reference to the arrest of Doroy and your father by the Japanese?

MR. WARD: Objected to, just a minute, I find nothing in the specifications as to any Villas, Juan Villas, I have Juan Villar, Specification 1, nothing to do with Juan Villas, therefore the question is immaterial as to what might occur to some other person.

MR. AITKEN: The question is relevant as the testimony will bring out. I probably did have a note and omitted it this morning -- it is a misspelled word, Villar -- that "r" should be "s."

MR. WARD: Is this a motion by the prosecution to again amend the specification?

MR. AITKEN: Yes, I will amend it whenever there is an error in the specification -- I will amend it.

MR. WARD: This again catches the defense completely unawares as to the identity of another man who was supposed to have been killed, but he has not been killed, a third party substituted.

COLONEL STICKNEY: Does the prosecution wish to amend Specification 1 wherein the spelling of Juan Villar's last name should be Villas?

MR. AITKEN: Yes.

COLONEL STICKNEY: There being no objection by other members of the Commission, the 1st Specification is so amended.

MR. AITKEN: Now just one moment, please, without re-reading this at the time I took counsel's word for it that the specification mentioned Juan Villar -- the original specification that I have in my hand here has Juan Villas, this is the original signed by Carpenter -- I don't know whether on the copies that they made there was a clerical error made or not.

COLONEL STICKNEY: It is "r" here.

MR. AITKEN: It is a clerical error in the copy, and I will withdraw the offer to amend, because the original specification here is Juan Villas, which are the official ones, and I will call attention to the members of the Commission also to the defense, that there has been a clerical error and the word Juan Villar put in those copies.

MR. WARD: Of course, the prosecutor must realize that he served copies and the copies so specified Juan Villar, but whichever is erroneous there would have to be an amendment for the sake of the record.

COLONEL STICKNEY: The specification as read into the record this morning was Villas, is that correct?

MR. AITKEN: Yes, sir.

COLONEL STICKNEY: Very well. It strikes me then that there is no need of any amendment to the official record.

MR. AITKEN: As to the official record, no.

COLONEL STICKNEY: To the specification as it appears in the record?

MR. AITKEN: I apologize to the defense and the Commission for allowing a misspelled copy to get by, but that is apparently what has happened.

MR. WARD: Again the defendant was precluded from originating an affirmative defense, because the name was misspelled.

MR. AITKEN: In view of that, of course, the prosecution will not hesitate to consent to any delay that the defense considers it has been put to by reason of that misspelled word.

COLONEL STICKNEY: At the first opportunity you had better contact your investigators in the field and find out what they can find out for you about Juan Villas.

MR. WARD: So will be done.

Q Will you state what happened at the time and place mentioned?

A You mean Balogo?

Q Balogo.

A On July 16, 1944, the Japanese apprehended my father.

Q What did they do?

A He was taken to Boroboro.

Q Where was he when they apprehended him?

A ✓ He was apprehended in our house.

Q How old a man was your father?

A Fifty-five.

Q Was he a civilian at that time?

A A civilian.

Q Will you describe the event as you saw it?

A I saw him arrested by the Japanese, and the Japanese fired a shot at him and he was hit in the finger of his right hand.

Q What else happened?

A After that he was taken away by the Japanese.

Q Where did they take him?

A To Boroboro Garrison.

Q Who else was taken at that time, if anyone?

A With him was Doroy.

Q Where did they take your father?

A To Boroboro Garrison.

Q What was there at Boroboro?

A A Japanese garrison.

Q Was your husband there at the time?

A No.

Q When did you see your husband after that?

A When the incident happened in the afternoon, and my husband returned late in the evening.

Q Did anything happen to him at the time?

A My husband?

Q Yes.

A Nothing happened to him.

A ✓ He was apprehended in our house.

Q How old a man was your father?

A Fifty-five.

Q Was he a civilian at that time?

A A civilian.

Q Will you describe the event as you saw it?

A I saw him arrested by the Japanese, and the Japanese fired a shot at him and he was hit in the finger of his right hand.

Q What else happened?

A After that he was taken away by the Japanese.

Q Where did they take him?

A To Boroboro Garrison.

Q Who else was taken at that time, if anyone?

A With him was Doroy.

Q Where did they take your father?

A To Boroboro Garrison.

Q What was there at Boroboro?

A A Japanese garrison.

Q Was your husband there at the time?

A No.

Q When did you see your husband after that?

A When the incident happened in the afternoon, and my husband returned late in the evening.

Q Did anything happen to him at the time?

A My husband?

Q Yes.

A Nothing happened to him.

Q Then, from Boroboro where was your husband taken, if anywhere?

COLONEL STICKNEY: Didn't I just understand her to say that her husband was not taken anywhere?

MR. AITKEN: Right.

Q Your father, Juan Villas.

COLONEL STICKNEY: (To Mr. Schauer) You are making an objection?

MR. SCHAUER: An objection. I would like a foundation laid as to whether or not the witness is testifying in answer to counsel's question as to events of her own knowledge or hearsay -- where her father was taken after he was taken to Boroboro and what happened then. I think the defense should be entitled to know whether this is hearsay or whether it is something within the direct knowledge of the witness testifying.

MR. AITKEN: I will re-form the question.

Q After your father was taken, after having been shot, to the garrison at Boroboro, did he stay there or was he taken away?

A He was taken from Boroboro Garrison to Concepcion on the 17th of January.

Q Did you see him taken away?

A I did not see them actually take him to Concepcion, but I was just informed by other persons.

Q Was Doroy in company with your father?

A Yes, they were together.

Q Do you know who it was that originally apprehended your father?

A I know.

Q Who?

A Captain Nanjo was the one who apprehended him in our house, and took him to Boroboro Garrison.

Q Who was Captain Nanjo?

A He was the captain of the Boroboro Garrison of the Japanese.

Q And do you know whether or not the soldiers who shot at your father at the time of his apprehension were soldiers of Captain Nanjo?

A Yes, they were Captain Nanjo's soldiers.

Q Did you ever see your father after that time alive or dead?

A I did not see him again.

Q Were you ever informed what became of him?

A Yes.

Q What?

A I was informed he was taken to Concepcion on 17 January, and I was not able to visit him that day and I saw him only on the next day, the 18th.

Q And what became of him if you know?

A He was dead.

Q Were you informed how he met his death?

A Yes. I was informed that he saw him taken to the place of the execution, but he did not see how he was killed.

Q Were you informed that he was killed?

A Yes.

Q Who told you that?

A Cesar Lamio.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. SCHAUER:

Q You say the Japanese came to your home and took your father away, is that right?

A Yes.

Q How many Japanese were there?

A I was not able to count them, because they were scattered.

Q How many came into your house?

A Three Japanese soldiers came inside the house. One was Captain Nanjo.

Q Did Captain Nanjo say anything to you or to your father?

A He did not talk with me and I did not hear him talking with my father.

Q When did the Japanese fire that shot at your father -- before they took him away?

A Before he was taken to the garrison the Japanese fired a shot at him.

MAJOR FRITZ: You say "before"?

MR. AITKEN: Will you read the answer, please?

(Reporter read the answer.)

Q Did he try to run away before the Japanese fired on him?

A I did not see him, because I was inside the house.

Q Were you in a different room than the room in which the Japanese and your father were?

A I was in my room, and my father was under the house.

Q You say under the house -- is that in the basement?

MR. AITKEN: Counsel, may I interrupt for a moment?

MR. SCHAUER: Certainly.

MR. AITKEN: Counsel is new here. I think he does not understand the Nipa shack out in the provinces. May I make this statement before the counsel? Would you like me to?

MR. SCHAUER: I see what you are getting at. In other words, the homes are built on raised platforms --

MR. AITKEN: Yes, they probably have one room, and below the house is not the basement.

MR. WARD: I was going to ask the arrangement there.

Q How many rooms do you have in the house?

A It is a little hut, and it is not exactly a room, but there is just no partitions at all.

Q How many Japanese did you actually see come there to your house that evening?

A Three, including Captain Nanjo. ✓

Q Did you see the Japanese who fired the shot?

A I did not see which Japanese fired the shot because I was inside the house.

Q You don't know then what your father was doing at the time the shot was fired?

A I do not know at the time he was fired at by the Japanese.

Q Did you see him after the shot was fired and before they took him to Boroboro?

A Yes, I saw him after he was shot.

Q Did you see where he had been hit in the hand? ✓

A Yes, the right hand.

Q Was Doroy there at that time

A Yes.

Q Do you see any Japanese here in the courtroom that came to your home on that evening?

A Yes, if I will be asked to identify him I can do it.

Q Yes, will you come down and show us the person or persons who were at your home that evening?

(The witness stepped to table of defense counsel and tapped person on shoulder.)

A This one.

COLONEL STICNEY: The record will show that the witness put her hand on the shoulder of the accused.

MR. SCHAUER: That is correct.

Q Did you hear any of the conversation which Nanjo had with your father or with Doroy that evening?

A I did not hear any.

Q That was the last time that you saw your father alive, is that right?

A It was the last time I saw my father alive.

Q Did you see his body after that?

A No more.

Q The last time you saw him then he was alive?

A Alive.

Q The person that told you that he had been killed then was Cesar Lamio?

A Yes.

Q On what day did Cesar Lamio tell you that your father had been killed?

A On the 18th of January.

Q Did he tell you that your father had been killed at Concepcion?

A Yes.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No further questions.

COLONEL STICKNEY: Questions by the Commission.

I would like to ask --

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Your father was arrested at your home at Balogo, is that correct?

A At Balogo.

Q And he was arrested inside the house, is that right?

A In our garden outside the house.

Q And when he was shot in the finger just where was he?

A This finger. (Indicating index finger.)

Q Where was he when he was shot in the finger?

A In the garden.

Q And did you see him shot?

A No.

Q Did you see that he was shot in the finger?

A I saw him after he was shot, and the finger was cut.

Q Do you know of any torture that was inflicted on your father?

A I didn't see any other torture.

Q Was Doroy also apprehended in the garden?

A He was at the railroad station, I don't exactly know where he was apprehended.

Q Had he been apprehended before your father was apprehended?

A He was apprehended first, and was later taken to our house.

Q So you saw him at your house, is that right?

A Yes, I saw him going to the house.

Q How far is Hacienda Balogo from Barrio Boroboro?

A About one kilometer.

Q In the middle of January, 1944, or prior thereto, had your father been a guerrilla?

A No.

Q How well did you know Doroy?

A I know Doroy for not a long time.

Q Just prior to the middle of January, 1944, how often did you see Doroy?

A I saw him very seldom.

Q Prior to that time how often had you seen Captain Nanjo?

A I often see him.

Q Do you know how many men he commanded?

A I don't know how many Japanese soldiers were under him.

Q Is Boroboro between Granada and Concepcion?

A Boroboro is farther away, not between Granada and Concepcion.

Q If you were going from Boroboro to Concepcion, would you have to pass through Granada on your way?

A No.

Q If you were going from Granada to Boroboro, would you pass through Concepcion on your way?

A No.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you please remind the witness that she is proceeding under oath?

(Witness reminded that she is still under oath.)

COLONEL STICKNEY: I have no further questions.

MAJOR FRITZ: I have a question.

BY MAJOR FRITZ:

Q Was Captain Nanjo ever a guest at your father's house?

A Yes, he had been a visitor to my father.

Q Did he ever eat there or sleep there?

A No, he was on patrol.

MR. AITKEN: Was what?

A He was on patrol.

Q Did your father and the captain ever have an argument?

A No.

Q Do you know why the Japanese apprehended your father?

A Yes, I know why he was apprehended.

Q State why he was apprehended.

A I do not know why he was apprehended-- I know that he was apprehended.

Q What was your father's business, and what were his activities?

A He was a laborer on a farm, or in the hacienda.

COLONEL STICKNEY: Will the reporter read that last answer?

(Last answer read by the reporter.)

Q Was he ever employed by the Japanese?

A No.

Q How far from Captain Nanjo were you when you saw him at your house?

A Very near -- it was more or less five meters away.

Q Was it dark or light?

A Daylight, about 2 o'clock in the afternoon.

Q Did you hear anything that Captain Nanjo or your father said, any words that were spoken?

A I didn't hear.

Q Do you know who the commanding officer was in Concepcion?

A I don't know.

MAJOR FRITZ: That 's all I have.

BY COLONEL STICKNEY:

Q Do you know who was commanding officer at Granada?

A I don't know.

Q Now is Boroboro on the road between Bacolod and Granada?

A No, we pass Granada on our way to Boroboro.

Q Is Boroboro between Granada and Murcia.

A No, Murcia is farther away.

Q How far is Boroboro from Granada?

A About two kilometers.

Q And how far is Hacienda Balogo from Granada?

A About one kilometer.

Q When they took your father from Balogo to Boroboro and then took him to Concepcion, would they pass through Baloga again on the way to Concepcion.

A No more, they will take another road.

COLONEL STICKNEY: I have no further questions.
Anything further from the defense?

MR. SCHAUER: May I ask a few questions?

COLONEL STICKNEY: Yes.

RECROSS-EXAMINATION

BY MR. SCHAUER:

Q Was your father ever connected with guerrilla units?

A No.

Q Did your father know any person or persons who were guerrillas?

MR. AITKEN: Objected to as calling for a conclusion of the witness. That, she can't know -- she does not know what her father knows.

MR. SCHAUER: She certainly would know of his friends or acquaintances.

MR. AITKEN: She would have to guess, she would not know.

MR. SCHAUER: She has two eyes.

COLONEL STICKNEY: The objection is not sustained, the question may be answered.

A I don't know whether or not he knew of persons who were members or connected with the guerrillas because he did not tell me about it.

Q Was your father in the market business, did he have a market?

A No.

Q Were you working, did you own a store or a market at the time that the Japanese came and took your father away?

A No.

Q Were you working at all at that time?

A I worked on a farm.

Q While you were working on the farm, did you take any food to the garrison at Boroboro?

MR. AITKEN: Objected to as irrelevant and immaterial.

COLONEL STICKNEY: Anything from the defense on that?

MR. SCHAUER: I am merely trying to find out, if the Commission please, whether or not this witness, who our investigation leads us to believe was connected with food at that time -- that is according to our information -- took food to the garrison, whether or not she supplied any of the guerrillas with food at that time.

COLONEL STICKNEY: The objection is sustained, the question need not be answered.

Q Did your father have anything to do with the farm where you were working?

A We do not live together in one house, but the farm belongs to us. The source of our livelihood comes from that farm.

Q Did your father work on the farm?

A He helped us work on the farm.

Q Do you know whether or not your father supplied any of the guerrillas with food?

MR. AITKEN: That is objected to --

A No --

MR. AITKEN: All right, I will withdraw the objection.

A No.

COLONEL STICKNEY: When you do have objections let's jump up and get them off in a hurry before the answer comes.

MR. AITKEN: All right. However, I am going to object just as little as I possibly can.

Q Did you actually see with your own eyes Captain Nanjo at your house on the 16th day of January.

A I actually saw him in our house.

MR. SCHAUER: That is all, no further questions.

COLONEL STICKNEY: The prosecution?

MR. AITKEN: No further questions.

COLONEL STICKNEY: The witness is excused. Just a minute please.

BY COLONEL MacKINTOSH:

Q Who owned the farm on which your father worked?

A It belonged to my husband and myself but we all helped to work on that farm.

COLONEL MacKintosh: No further questions.

COLONEL STICKNEY: Anything further from the Commission?

MR. AITKEN: No further questions.

MR. SCHAEFER: No further questions.

COLONEL STICKNEY: No witness is excused.

(Witness excused)

7

CESAR LAMIO

a witness for the prosecution, having first been duly sworn, was examined and testified as follows, through Interpreters Zosa and Genoves:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Cesar Lamio.

Q Your age?

A Twenty-seven.

Q Your occupation?

A Farming.

Q And where do you reside?

A Barrio Concepcion.

Q Within the Municipality of Bacolod?

A Talisay, Occidental Negros.

Q Where were you -- were you in that neighborhood on January 17, 1944?

A Yes.

Q Do you know Juan Villas?

A I know him.

Q Do you know a person named Teodoro Vera?

A Yes.

Q Is the name Doroy a diminutive of Teodoro?

A Doray is the nickname for Teodoro.

Q Was Teodoro Vera known as Doroy?

A Yes.

Q Did you see Teodoro Vera and Juan Villas on that date?

A I did not see them on January 17, but I saw them after they were already killed.

MAJOR FRITZ: May I have that read from the record, please? I didn't hear the answer.

(The reporter read the answer.)

Q How soon after they were already killed did you see them?

A That afternoon of January 17.

Q Where were you at the time?

A I was up in a coconut tree.

Q What were you doing?

A I was gathering tuba.

Q What did you see there at that time?

A I saw a Japanese patrol led by Captain Nanjo passed the road from Boroboro.

Q Were they coming from Boroboro or going to Boroboro?

A The road to Boroboro.

Q How big was this patrol? How many men?

A I saw Captain Nanjo with a sword and a revolver. There were eleven Japanese soldiers and two civilians.

Q What happened there at this time, if anything?

A When I saw them clearly, I went down from the coconut tree and hid behind the tree.

Q And then did you hear anything?

A I heard the Japanese murmur.

Q Is that all you heard?

A I hear moans of pain.

Q Did you see anything at that time?

A I did not see anything more. Only I heard those moans while I was hiding behind the tree.

Q Had the patrol stopped there at the time?

A They stopped in the garden near the place where I was gathering tuba.

Q And how long did they stop there?

A About one hour.

Q Then after that did they leave?

A They left one hour after.

Q In which direction?

A They passed the same road.

Q In which direction -- towards or going from Boroboro?

A To Boroboro.

Q Then what did you do?

A I came out from my hiding place. I was about to finish gathering tuba, when I saw two dead bodies.

Q Did you examine them?

A I was so afraid and I looked at the two bodies.

Q Did you recognize them?

A Yes.

Q Who were they?

A One was Teodoro Vera and Juan Villas.

Q Did you examine them for the wounds?

A Yes.

Q What did you see on Villas?

A The wound here (indicating neck).

Q What sort of wound?

A According to my own knowledge, it was inflicted by bayonet.

COLONEL STICKNEY: This has been going pretty fast. Will the reporter read back the answer about three questions back, where he named two people, I believe.

(The reporter read the desired portion of the record.)

Q How deep a wound?

A I did not see how deep it was, but I know he had a wound.

Q Was there only one wound or were there more?

A I only saw one.

Q Did you examine Teodoro Vera?

A I saw Teodoro Vera lying face down. He was blindfolded and his hands were tied to a lanzones tree and I saw a bullet hole in the back of his neck.

Q Were these men dead?

A Yes.

Q Then what did you do?

A I immediately went home.

Q After you went home, what did you do -- did you report this?

A I went to the family of Juan Villas.

Q And did you tell them of what you saw?

A I told them about the incident -- that her father is together with Teodoro Vera already dead.

Q Did you have anything to do with burying them?

A On Friday afternoon, 19 of January, we buried the two bodies.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. WARD:

Q How far from Concepcion is your home?

A About one kilometer.

Q How far from Concepcion were you on the 17th of January when you saw Captain Nanjo on the road and you were in the tree?

A The place where I was on January 17 is about one kilometer from Concepcion.

Q What time of day did you see Captain Nanjo and the two victims -- Villas and Vera -- on the road?

A About four o'clock in the afternoon.

Q How far is Concepcion from Boroboro?

A About four kilometers.

Q How far was the road from your tree?

A From the place where I am sitting to that house where there is a chimney (pointing through door of courtroom).

Q Do you refer to those two black stacks over there?

A That building with the chimney.

MR. WARD: I imagine that is a good deal more than that. One hundred and twenty-five yards let the record show. With the Commission's consent would that be one hundred to one hundred and twenty-five yards?

COLONEL STICKNEY: What do you think, Mr. Aitken?

MR. AITKEN: Between one hundred and one hundred and twenty-five yards, that is satisfactory.

COLONEL STICKNEY: Let the record show somewhere between one hundred and one hundred and twenty-five yards. Is that satisfactory?

MR. WARD: That is satisfactory.

Q When you first saw Captain Nanjo, where was he with respect to the road?

A The road to Boreboro.

MR. WARD: Will you read back my question?

(The reporter read the last question.)

A On the road to Boreboro.

Q Yes, I know. But where in respect to the road? Was he on the road?

A He was in the middle of the road.

Q Where were the two victims, Villas and Vera, in relation to Captain Nanjo?

A They were in the center of the Japanese on patrol.

Q Was Captain Nanjo leading this patrol?

A Yes.

Q Could you recognize Villas and Vera from where you were?

A I was not able to recognize them while I was up in the coconut tree. I saw them only after they were killed.

Q Were there many trees between your tree and the road, one hundred and twenty-five yards away?

A There was only one tree between the tree where I was from the road where the two victims were.

Q Did that tree that was between you and the Japanese patrol hide you from Captain Nanjo's sight?

A It hid him because if the tree had not hidden my sight he would have found me in my place.

Q Have you ever seen Captain Nanjo prior to this time?

A Yes.

Q Where?

A They raided our house.

Q Is the time of the raid you are speaking of now the only other time you have seen Captain Nanjo?

A The second time was when I saw him on patrol.

Q Was that on January 17?

A Yes.

Q Have you seen him anytime since the 17th of January and August 1945?

A I did not see him anymore.

COLONEL STICKNEY: I would like that last question read to me, please ?

(The reporter read the question.)

Q In other words, you have seen Captain Nanjo just twice?

A Yes.

Q Where were you when Captain Nanjo raided your house?

A In my house.

Q What did Captain Nanjo do at that time?

A I was ordered to go down stairs and a Japanese P.C. told Captain Nanjo that I was a member of the USAFFE.

Q How long were you with Captain Nanjo in that room before you were sent downstairs?

A Captain Nanjo did not go upstairs. He was downstairs.

Q How long were you with Captain Nanjo downstairs?

A About one-half hour.

Q Do you see the man in court now who was with you during that one-half hour?

A Because of the length of time I seem to forget him.

Q What date was it when Captain Nanjo raided your house?

A January 10.

Q January 10 of what year?

A 1944.

Q How do you know it was Captain Nanjo who questioned you during that half-hour?

A He was with his Japanese PC and the Japanese PC told me that Captain Nanjo said that I am a member of the USAFFE.

Q A member of what?
A USAFFE.
Q Are you certain that he said "Captain Nanjo"?
A Yes.
Q You are absolutely sure of his rank?
A I am sure, because he was called Captain Nanjo.
Q How big a man was Captain Nanjo? As tall as you?
A You mean me to compare with my own size?
Q That is right.
A Captain Nanjo was a little bit shorter than I am.
Q How much shorter?
A May I stand up?
Q Yes. Where did he come? How high?
A (Witness standing and indicating above shoulder) About there.

MR. AITKEN: The witness indicates the height of the accused is to his mouth.

Q Try again. About your mouth? About how high? Where on me?

A You are taller.

MR. WARD: About 5'2". Is that correct to the Commission?

COLONEL STICKNEY: Does the prosecution agree to that?

MR. AITKEN: Yes.

MR. WARD: That would be about 5'2" -- even with his mouth.

MR. AITKEN: I would say about 5'2" or 3".

COLONEI STICKNEY: The record will so show.

Q How was Captain Nanjo dressed?

A Khaki uniform.

COLONEI STICKNEY: The Commission will take a recess and will reconvene at 0830 hours on 8 October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 8 October 1946.)

COLONEI STICKNEY: The record will so show.

Q . How was Captain Nanjo dressed?

A Khaki uniform.

COLONEI STICKNEY: The Commission will take a recess and will reconvene at 0830 hours on 8 October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 8 October 1946.)

RESTRICTED

CENTRAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

AG OCO.5 (5 Dec 45) LS

APC 500
5 December 1946

SUBJECT: Regulations Governing the Trials of Accused War Criminals.

TO : Commander-in-Chief, United States Army Forces, Pacific, APO 500
Commanding General, Sixth Army, APO 442
Commanding General, Eighth Army, APO 343
Commanding General, XXIV Corps, APO 235

The following rules and regulations will govern the trials of persons, units and organizations accused as war criminals:

1. ESTABLISHMENT OF MILITARY COMMISSIONS.

a. General. Persons, units and organizations accused as war criminals will be tried by military commissions to be convened by, or under the authority of, the Supreme Commander for the Allied Powers.

b. Number and Types. The commissions will be established dependent upon the number, nature of the offenses involved and the offenders to be tried. Such commissions may include, among others, international military commissions consisting of representatives of several nations or of each nation concerned, appointed to try cases involving offenses against one (1) or more nations.

2. JURISDICTION.

a. Over Persons. The military commissions appointed hereunder shall have jurisdiction over all persons charged with war crimes who are in the custody of the convening authority at the time of the trial.

b. Over Offenses.

(1) Military commissions established hereunder shall have jurisdiction over all offenses including, but not limited to, the following:

(a) The planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

RESTRICTED

U. S. A. vs *Masao Maruyama*
PROSECUTION
~~DEFENSE~~

EXHIBIT No. 1.....

RECEIVED 7 Oct 46

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- (b) Violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory; murder or ill-treatment of prisoners of war or internees or persons on the seas or elsewhere; improper treatment of hostages; plunder of public or private property; wanton destruction of cities, towns or villages; or devastation not justified by military necessity.
 - (c) Murder, extermination, enslavement, deportation and other inhuman acts committed against any civilian population before or during the war, or persecutions on political, racial or religious grounds in execution of, or in connection with, any crime defined herein, whether or not in violation of the domestic laws of the country where perpetrated.
- (2) The offense need not have been committed after a particular date to render the responsible party or parties subject to arrest, but in general should have been committed since or in the period immediately preceding the Mukden incident of September 18, 1931.

3. MEMBERSHIP COMMISSION.

a. Appointment. The members of each military commission will be appointed by the Supreme Commander for the Allied Powers, or under authority delegated by him. Alternates may be appointed by the convening authority. Such alternates shall attend all sessions of the commission, and in case of illness or other incapacity of any principal member, an alternate shall take the place of that member. Any vacancy among the members or alternates, occurring after a trial has begun, may be filled by the convening authority, but the substance of all proceedings had and evidence taken in that case shall be made known to that new member or alternate in open court before the trial proceeds.

b. Number of Members. Each commission shall consist of not less than three (3) members.

c. Qualifications. The convening authority shall appoint to the commission persons whom he determines to be competent to perform the duties involved and not disqualified by personal interest or prejudice, provided that no person shall be appointed to hear a case which he personally

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investigated, nor if he is required as a witness in that case. A commission may consist of Army, Navy or other service personnel, or of both service personnel and civilians. One specially qualified member shall be designated as the law member whose ruling is final insofar as concerns the commission on an objection to the admissibility of evidence offered during the trial.

d. Voting. Except as to the admissibility of evidence, all rulings and findings of the commission shall be by majority vote, except that conviction and sentence shall be by the affirmative votes of not less than two-thirds (2/3) of the members present.

e. Presiding Member. In the event that the convening authority does not name one of the members as the presiding member, the senior officer among the members of the commission present shall preside, or such other member as the senior officer may designate.

4. PROSECUTORS.

a. Appointment. The convening authority shall designate one or more persons to conduct the prosecution before each commission. Where offenses involve nationals of more than one nation, each nation concerned, in the discretion of the convening authority, may be represented among the prosecutors.

b. Duties. The duties of the prosecutors are:

- (1) To prepare and present charges and specifications for reference to a commission.
- (2) To prepare cases for trial and to conduct the prosecution before the commission of all cases referred for trial.

5. POWERS AND PROCEDURE OF COMMISSIONS.

a. Conduct of the Trial. A commission shall:

- (1) Confine each trial strictly to a fair, expeditious hearing on the issues raised by the charges, excluding irrelevant issues or evidence and preventing any unnecessary delay or interference.
- (2) Deal summarily with any contumacy or contempt, imposing any appropriate punishment therefor.
- (3) Hold public sessions except when otherwise decided by the commission.

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- (4) Hold each session at such time and place as it shall determine, or as may be directed by the convening authority.

b. Rights of the Accused. The accused shall be entitled:

- (1) to have in advance of trial a copy of the charges and specifications clearly worded so as to apprise the accused of each offense charged.
- (2) To be represented, prior to and during trial by counsel appointed by the convening authority or counsel of his own choice, or to conduct his own defense.
- (3) To testify in his own behalf and have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the commission.
- (4) To have the substance of the charges and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

c. Witnesses. The Commission shall have powers:

- (1) To summon witnesses and require their attendance and testimony under penalty; to administer oaths or affirmations to witnesses and other persons and to question witnesses.
- (2) To require the production of documents and other evidentiary material.
- (3) To delegate to the Prosecutors appointed by the convening authority the powers and duties set forth in (1) and (2), above.
- (4) To have evidence taken by a special commissioner appointed by the commission.

d. Evidence.

- (1) The commission shall admit such evidence as in its opinion would be of assistance in proving or disproving the charge, or such as in the commission's opinion would have probative value in the mind of a reasonable man. The commission

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shall apply the rules of evidence and pleading set forth herein with the greatest liberality to achieve expeditious procedure. In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

- (a) Any document irrespective of its classification which appears to the commission to have been signed or issued by any officer, department, agency or member of the armed forces of any government without proof of the signature or of the issuance of the document.
 - (b) Any report which appears to the commission to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or any medical service personnel, or by an investigator or intelligence officer, or by any other person whom the commission considers as possessing knowledge of the matters contained in the report.
 - (c) Affidavits, depositions or other signed statements.
 - (d) Any diary, letter or other document, including sworn or unsworn statements, appearing to the commission to contain information relating to the charge.
 - (e) A copy of any document or other secondary evidence of its contents, if the original is not immediately available.
- (2) The commission shall take judicial notice of facts of common knowledge, official government documents of any nation, and the proceedings, records and findings of military or other agencies of any of the United Nations.
 - (3) A commission may require the prosecution and the defense to make a preliminary offer of proof, whereupon the commission may rule in advance on the admissibility of such evidence.
 - (4) If the accused is charged with an offense involving concerted criminal action upon the part of a military or naval unit, or any group or organization, evidence which has been given previously at a trial resulting in the

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conviction of any other member of that unit, group or organization, relative to that concerted offense, may be received as prima-facie evidence that the accused likewise is guilty of that offense.

- (5) The findings and judgment of a commission in any trial of a unit, group, or organization with respect to the criminal character, purpose or activities thereof shall be given full faith and credit in any subsequent trial, by that or any other commission, of an individual person charged with criminal responsibility through membership in that unit, group or organization. Upon proof of membership in that unit, group or organization convicted by a commission, the burden shall be on the accused to establish by proof any mitigating circumstances relating to his membership or participation therein.
- (6) The official position of the accused shall not absolve him from responsibility, nor be considered in mitigation of punishment. Further, action pursuant to order of the accused's superior, or of his government, shall not constitute a defense, but may be considered in mitigation of punishment if the commission determines that justice so requires.
- (7) All purported confessions or statements of the accused shall be admissible without prior proof that they were voluntarily given, it being for the commission to determine only the truth or falsity of such confessions or statements.

e. Trial Procedure. The proceedings at each trial will be conducted substantially as follows, unless modified by the commission to suit the particular circumstances:

- (1) Each charge and specification will be read, or its substance stated, in open court.
- (2) The presiding member shall ask each accused whether he pleads "Guilty" or "Not guilty".
- (3) The prosecution shall make its opening statement.
- (4) The presiding member may, at this or any other time, require the prosecutor to state what evidence he proposes to submit to the commission, and the commission thereupon may rule upon the admissibility of such evidence.

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- (5) The witnesses and other evidence for the prosecution shall be heard or presented. At the close of the case for the prosecution, the commission may, on motion of the defense for a finding of not guilty, consider and rule whether the evidence before the commission supports the charges against the accused. The commission may defer action on any such motion and permit or require the prosecution to reopen its case and produce any further available evidence.
- (6) The defense may make an opening statement prior to presenting its case. The presiding member may, at this or any other time, require the defense to state what evidence they propose to submit to the commission whereupon the commission may rule upon the admissibility of such evidence.
- (7) The witnesses and other evidence for the defense shall be heard or presented. Thereafter, the prosecution and defense may introduce such evidence in rebuttal as the commission may rule admissible.
- (8) The defense, and thereafter the prosecution, shall address the commission.
- (9) The commission thereafter shall consider the case in closed session and unless otherwise directed by the convening authority, announce in open court its judgment and sentence, if any. The commission may state the reasons on which the judgment is based.

f. Record of Proceedings. Each commission shall make a separate record of its proceedings in the trial of each case brought before it. The record shall be prepared by the prosecutor under the direction of the commission and submitted to the defense counsel. The commission shall be responsible for its accuracy. Such record, certified by the presiding member of the commission or his successor, shall be delivered to the convening authority as soon as possible after the trial.

g. Sentence. The commission may sentence an accused, upon conviction, to death by hanging or shooting, imprisonment for life or for any less term, fine or such other punishment as the commission shall determine to be proper. The commission may also order confiscation of any property of a convicted accused, deprive that accused of any stolen property or order its delivery to the Supreme Commander for the Allied Powers for disposition as he shall find to be proper, or may order restitution with appropriate penalty in cases of default.

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h. Approval of Sentence. No sentence of a military commission shall be carried into effect until approved by the officer who convened the commission, or his successor. Such officer shall have authority to approve, mitigate, remit in whole or in part, commute, suspend, reduce or otherwise alter the sentence imposed, or (without prejudice to accused) remand the case for rehearing before a new military commission; but he shall not have authority to increase the severity of the sentence. No sentence of death shall be carried into execution until confirmed by the Supreme Commander for the Allied Powers. Except as herein provided, the judgment and sentence of a commission shall be final and not subject to review.

6. RULE MAKING POWER.

Supplementary Rules and Forms. Each commission shall adopt rules and forms to govern its procedure, not inconsistent with the provisions hereof, or such rules and forms as may be prescribed by the convening authority or by the Supreme Commander for the Allied Powers.

By command of General MacARTHUR:

H. W. ALLEN,
Colonel, A.G.D.,
Asst Adjutant General.

R E S T R I C T E D

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

AG 000.5 (25 June 46) LS

AP0 500
25 June 1946

SUBJECT: Trial of Masao Nanjo.

TO : Commander-in-Chief,
United States Army Forces, Pacific.

1. It is desired that a Military Commission be appointed for the trial of the following named person, member of or serving with the Imperial Japanese Forces, for the alleged offenses indicated on the attached charge:

Masao Nanjo

2. The trial will be held in the city of Manila, Philippine Islands. All trials held under this authority will be conducted in conformity with Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, General Headquarters, Supreme Commander for the Allied Powers.

3. All records of trial including judgment or sentence and the action of the appointing authority will be forwarded to General Headquarters, Supreme Commander for the Allied Powers. Unless otherwise directed, the execution of any death sentence will be withheld pending the action of the Supreme Commander for the Allied Powers.

By command of General MacARTHUR:

F. G. Hersey
F. G. HERSEY
Lt Col, AGP
Asst Adj Gen

1 Incl:
1. Chg vs Masao Nanjo

U. S. G. vs Masao Nanjo
Prosecution Exhibit No. 2
Received: 2 October 1946.

BASIC: Ltr, GHQ, SCAP, file AG 000.5 (25 June 46) LS, dated 25 June 1946, subject: "Trial of Masao Nanjo".

AG 000.5 (25 June 46) LS 1st Ind

GENERAL HEADQUARTERS, UNITED STATES ARMY FORCES, PACIFIC,
APO 500, 25 June 1946.

TO: Commanding General, United States Army Forces, Western Pacific, APO 707.

1. Pursuant to authority delegated the Commander-in-Chief, United States Army Forces, Pacific, contained in letter, file AG 000.5 (25 June 46) LS, General Headquarters, Supreme Commander for the Allied Powers, Subject: "Trial of Masao Nanjo", dated 25 June 1946, said power is redelegated to you and you are hereby directed to appoint a Military Commission for the trial of the following named person, member of or serving with the Japanese Imperial Forces:

Masao Nanjo

2. The trial will be held in the city of Manila, Philippine Islands. The trial held under this authority will be conducted in conformity with Regulations Governing the Trials of Accused War Criminals, dated 5 December 1945, General Headquarters, Supreme Commander for the Allied Powers.

3. The record of trial including judgment or sentence and the action of the appointing authority will be forwarded to General Headquarters, Supreme Commander for the Allied Powers. Unless otherwise directed, the execution of any death sentence will be withheld pending the action of the Supreme Commander for the Allied Powers.

4. The following named officers, assigned to General Headquarters, Supreme Commander for the Allied Powers, have been made available to your command for service as prosecution personnel on the Military Commission to be convened by you for this purpose:

Prosecution Personnel for the Trial

1st Lt James H. Ross, INF, O-376782, Chief Prosecutor
1st Lt Felix L. Finley, Jr, QMC, O-1596370, Assistant Prosecutor.

By command of General MacARTHUR:

1 Incl:
1. Chg vs Masao Nanjo

2

R. G. Hersey
R. G. HERSEY
Lt Col, AGD
Asst Adj Gen

MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces, Western Pacific

APO 707
7 October 1946

SUBJECT: Swearing Witnesses for HANJYO Trial.

TO : Chief Prosecutor for Commission.

Pursuant to authority of provisions of Letter, General Headquarters, Supreme Commander for the Allied Powers, 5 December 1945, subject: "Regulations Governing the Trials of Accused War Criminals," you are authorized, as Chief Prosecutor of the above named case referred for trial to the Military Commission convened by the Commanding General, United States Army Forces, Western Pacific, by Paragraph 14, Special Orders No. 218, dated 23 September 1946, as amended, to administer oaths or affirmations to witnesses and other persons in the subject case.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel INF
President of Commission

U.S.A. vs Hasso Hanjyo
Prosecution

Exhibit No. 3

Received 7 Oct 46

/lpm

Before A
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
UNITED STATES ARMY FORCES
WESTERN PACIFIC

UNITED STATES OF AMERICA)

vs.)

MASAO NANJO)

PUBLIC TRIAL)

VOLUME II

PAGES 85 - 165 INCL.

DATE: 8 October 1946

MANILA, P. I.

COPY NO.: 1

mvm

Before A
MILITARY COMMISSION
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UNITED STATES ARMY FORCES
WESTERN PACIFIC

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mvm

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney

RICHARD C. STICKNEY
Colonel, INF
President of Commission

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in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney

RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

) PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
8 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICNEY, INF, President & Law Member
LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. VARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd Lt. HAKUZO NITTA Japanese
Tec 3 TAKEO SAITO Japanese

FILOMENA ZOSA Ilongo (Visayan)
PEDRO GIMOVES Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Cesar Lamio (Cont'd)		87		139	124
Purificacion Salon	149	157			

mvm

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Cesar Lamio (Cont'd)		87		139	124
Purificacion Salon	149	157			

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P R O C E E D I N G S

(The Commission convened, pursuant to adjournment, at 0830 hours, 10 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, prosecution, counsel for the defense with the defendant and his personal interpreter, the reporters, and the assigned interpreters are all in court. At the end of the last session Cesar Lamio was on the stand undergoing cross-examination. Will you remind the witness that he is still proceeding under the oath already administered?

(Witness reminded that he was still under oath.)

CESAR LAMIO

a witness for the prosecution, having been previously
duly sworn, testified further as follows through
Interpreters Zosa and Genoves:

CROSS-EXAMINATION (Cont'd)

BY MR. WARD:

Q Calling your attention, Cesar, again to the time
when Captain Nanjo was in your house or near your house
investigating, how was he dressed?

A He was in a khaki Japanese uniform.

Q What insignia was he wearing?

A He only carried with him a sword and a revolver.

Q No insignia?

A I was not able to see any because I was afraid of them.

Q When you first saw Captain Nanjo on the road, 125 yards
away, what did you do on January 17?

A I climbed up the coconut tree.

Q Where were you when you first saw Captain Nanjo?

COLONEL STICKNEY: I think this question should
be tied into the date.

MR. WARD: Well, I thought we were speaking of
January 17.

Q On January 17 where were you when you first saw
Captain Nanjo?

A I was up in the coconut tree.

Q What did you do immediately after seeing Captain Nanjo?

A I took a good look at him and after recognizing him I went down the tree.

Q Then What did you do?

A I hid myself behind a bamboo grove.

Q How far was this bamboo grove from the tree you had just climbed down?

A From this place where I am sitting, to that truck on the opposite side.

MR. WARD: May the record show that is about --

MR. AITKEN: Thirty or forty yards.

MR. WARD: Forty yards is good.

COLONEL STICKNEY: The record will so show.

Q Was that direction toward or away from Captain Nanjo?

(Answer to this question was gotten through the use of a diagram on paper.)

A The coconut tree was in this place (indicating) and I hid at this place here where there was a bamboo grove.

Q Was Nanjo about here?

A And Nanjo was here.

Q In other words, you went away from Captain Nanjo toward this road, is that correct?

MR. AITKEN: The record should show that the witness indicated a road and almost on the road a bamboo tree and at right angles to the road a clump of bamboo.

COLONEL STICKNEY: That was a coconut tree.

MR. AITKEN: The coconut tree here and the clump of bamboo at right angle to the road so that proceeding from the coconut tree to the bamboo clump was not away from Nanjo in the sense that it was directly away, but it was at right angle distance.

COLONEL STICKNEY: Is the defense agreeable to that description of right angle?

MR. WARD: At this time, yes.

COLONEL STICKNEY: Very well.

MR. WARD: Will the reporter please read my last question?

(Last question read by reporter.)

A No.

Q Yesterday, did you not say that the bamboo tree was 125 yards from the road?

A No, I referred to the coconut tree.

Q Did you not say the coconut tree?

COLONEL STICKNEY: You said bamboo.

Q Referring to the coconut tree, was the coconut tree 125 yards from the road?

A Yes, I remember I pointed out the distance yesterday.

Q Then the coconut tree was not near or on the road, is that correct?

A The tree is near the road.

Q Would the distance be from where you are to those chimneys over there (indicating)?

A Yes.

Q All right, would the bamboo grove be over by those trees at the end of the building down there?

A The bamboo clump from the road?

Q Using those stacks as the road -- where he is sitting, the coconut tree, where would the bamboo clump or grove be?

A The coconut tree is at that place there at that building with the chimney.

Q The coconut tree?

A Yes, the coconut tree, and the bamboo tree is at that place where there is a truck inside.

Q And he is sitting on the road now, is that correct?

A The road is this place.

MR. WARD: Let the record show that that would be an additional forty yards as first testified by the witness in a triangular position approximately 150 yards from the road.

COLONEL STICKNEY: Will the reporter read that, please, I would like to hear it?

(Last remarks of Mr. Ward read by the reporter.)

MR. AITKEN: We do not agree to that statement. Let the record show that that would be an additional 50 yards.

MR. WARD: That is correct.

MR. AITKEN: That is a matter that the Court can decide.

MR. WARD: I was making my motion.

MR. AITKEN: Let's fix the distances as they are.

MR. WARD: I was making a tentative arrangement.

MR. AITKEN: Yesterday we agreed those chimneys were from 120 to 125 yards from here, and the tree referred to, 125 is where the trees were.

MR. WARD: The trees and the trucks down at the end of the building, the truck is right by the trees, that would be an additional 50 yards anyway. We are considering that 120 to 125 to the chimney. From the chimney to those trees at the end of the building are trucks. They are all in a little area there.

COLONEL STICKNEY: I would like to ask if you mean it is farther to the trees from here than it is to the chimney from here?

MR. WARD: That is what I believe he is testifying to in relation to the map and his former testimony.

COLONEL STICKNEY: You figure that the distance from here to that tree is farther than the distance from here to that smokestack?

MR. WARD: I don't think it would be an equilateral triangle, Sir, I would say it was farther.

COLONEL STICKNEY: And how much farther?

MR. WARD: Thirty yards.

MR. AITKEN: This is the apex of the triangle. I think it would be just about an equilateral triangle the same distance from here to the chimneys from the chimneys to that clump of trees back there.

COLONEL STICKNEY: Well, the record will show both the opinion of the defense counsel and the opinion of the prosecution.

MR. WARD: I then request the opinion of the Court at this time.

COLONEL STICKNEY: The Court will not make an opinion. The Court has seen it. The only purpose of spreading it on the record is for the reviewing authority.

MR. WARD: That is correct.

COLONEL STICKNEY: As an individual member of the Court, I would say the tree looks to me closer than the chimney.

MR. WARD: We will clear that up with the witness.

Q When you left the trees to go toward the bamboo grove, did you go toward Captain Nanjo or away from him?

A Away from Captain Nanjo.

Q How much farther away from Captain Nanjo were you in this group of bamboo trees than you were when you were in the coconut tree?

A At the time I saw him?

Q When you left the bamboo tree?

MR. AITKEN: The coconut tree.

MR. WARD: The coconut tree rather.

Q And went to the bamboo grove -- how much farther were you away from Captain Nanjo at that time?

A When Captain Nanjo was on the road?

Q That is correct.

A I was at a distance beyond that clump of trees.

Q How much farther?

MR. WARD: Before we answer that last question, may the record show this same clump of trees referred to before with the adjacent end of the building and the truck. He may answer that question now.

A I have not been in that place where there are trees, but according to my calculation I was one arm's length away from them.

MR. WARD: One arm length?

A From that clump of trees.

Q When you left the --

COLONEI STICKNEY: Hold it just a minute, please, will the reporter read that last answer?

(Last answer read by reporter.)

Q What direction was Captain Nanjo moving when you saw him in the coconut tree?

MR. AITKEN: From the coconut tree.

MR. WARD: No, when you saw him in the coconut tree.

MR. AITKEN: He was in the tree.

Q All right. When you saw him in the coconut tree?

A Towards me.

Q And that would be toward Concepcion, or away from it?

A Towards Concepcion.

Q Did Captain Nanjo pass by your clump of bamboo trees bamboo grove, while you were hiding there?

A No.

Q What did he do?

A I did not see what he was doing.

Q How do you know that he did not pass?

A Because the bamboo clump where I hid was farther away from him.

MR. WARD: That was not responsive, will you ask the same question again, please?

(Interpreter repeated the question.)

A Because I did not see him while I was hiding from him.

Q Again, it is not responsive, will you ask the same question -- how do you know he did not pass on the road to Concepcion while you were hiding in that bamboo grove?

MR. AITKEN: What does the witness say?

INTERPRETER ZOSA: I do not understand.

MR. AITKEN: All right, let the record show that he says "I don't understand".

COLONEL STICKNEY: The record does not need to show all the intermediate conversation. We are trying to get an answer and we have failed twice. We don't want every word of the language to be translated.

MR. AITKEN: I understand that, but I thought the record should show because the question is being asked a number of times of the witness. He has not been a recalcitrant witness, he does not understand. I think the record should show he does not understand as a reason for our not getting a clear answer.

COLONEL STICKNEY: I think we have to depend on our interpreters to give us the answers we are after.

MR. WARD: In addition, I disagree with the counsel's observation, of course.

COLONEL STICKNEY: (To the interpreters) You understand what we are trying to get?

INTERPRETER ZOSA: Yes, Sir.

COLONEL STICKNEY: And you are still working on that?

INTERPRETER ZOSA: Yes, Sir.

COLONEL STICKNEY: All right.

A ✓ Because I was hiding.

Q That is not responsive, ask him again.

(Last question read by reporter.)

A How could I see him when I was hiding.

MR. WARD: Let the record show that the witness has answered some of my questions in English, he also understands some English or a reasonable facsimile of the English interpretation -- and please ask the same question again. He answered on direct examination he was in the grove and he heard something, therefore, he was testifying that he knew that Captain Nanjo was there -- he is now attempting to avoid the direct question as to how he knew Captain Nanjo was there at the time.

MR. AITKEN: And I ask that the observations of counsel be stricken from the record as to what the witness's mental process is. It is pure stupidity, as far as I can see. There isn't any attempt to evade anything at all.

MR. WARD: The witness also answered one of my questions in English before it was interpreted, and he was admonished by counsel at that time to wait for the

translation.

COLONEL STICKNEY: Before the ruling on that objection, I would like to ask the prosecution if this witness can testify in English?

MR. AITKEN: I doubt it very much. I was surprised when he came into court here to know that he knows as much English as he apparently does. I don't think he knows enough to understand thoroughly -- I think he knows a very little bit.

MR. WARD: It might be worthwhile to have him read something we have here, to understand his basis or knowledge of the English language.

MR. AITKEN: Can you understand English well enough to answer in English?

THE WITNESS: (Through Interpreter Zosa) No. I attended but only the lower grades.

MR. AITKEN: What grades?

THE WITNESS: (Through Interpreter Zosa) Grade 4.

MR. AITKEN: I want to say this to the Commission: in talking to him I have talked through an interpreter all the time.

COLONEL STICKNEY: The objection of the prosecution is sustained and the remarks of the defense counsel will be stricken from the record.

MR. WARD: Will you repeat the last question to him again? By the way, this is off the record.

COLONEL STICKNEY: We must be careful about off-record. I don't say we can't do it, but if we do we want to describe into the record what we have done.

MR. WARD: I am willing to have this go into the record. Is the Visayan translation of what I am asking plain?

INTERPRETER ZOSA: Yes, sir. Everything is plain and it is the only answer we could expect from the witness. The witness' answer is being repeated.

MR. WARD: But is the question plain -- the English translation is plain, is that correct?

INTERPRETER ZOSA: Yes, sir.

Q When did you leave the bamboo grove?

A When the Japanese were no longer there.

Q How do you know the Japanese were no longer there?

A Because they were no longer shouting.

Q No longer shouting? You heard shouting, is that correct?

A Yes.

Q Did you understand what was being shouted?

A No, because they were spoken in Japanese.

Q There were no Visayan words used at that time that you could hear, is that correct?

A No.

Q You are sure this is January 17, 1944, is that correct?

A Yes.

Q When asked yesterday if there was any loud noise or shouting you said "No." Why are you changing your testimony now?

MR. AITKEN: Just a moment. I object to that question as assuming that he said something that he didn't say. He said he heard the murmur and groans.

MR. WARD: And no loud shouts or statements.

MR. AITKEN: He didn't say anything about loud shouts.

MR. WARD: I will withdraw the question, or rather I will let the ruling stand. I believe yesterday when asked if there were any words spoken or shouts, I believe he said, "No, there was only a low murmur," and that was all he heard.

MR. AITKEN: He said he heard the moanings.

MR. WARD: He said something that sounded like a moan -- put it that way.

COLONEL STICKNEY: I would like to find in the record the things we are now speaking of.

MR. WARD: I think that would be a good idea, if it is available with the reporter.

(The reporter read the following from the record:.

"Q What happened there at this time, if anything?

"A When I saw them clearly I went down from the coconut tree and hid behind that tree.

"Q And then did you hear anything?

"A I heard the Japanese murmur.

"Q Is that all you heard?

"A I hear moans of pain.

"Q Did you see anything at that time?

"A I did not see anything more. I only heard those moans while I was hiding behind the tree.")

Q Yesterday you testified ---

COLONEL STICKNEY: Will you withdraw your last question?

MR. WARD: Yes, I will withdraw the last question.

Q Yesterday you testified that you merely heard the Japanese murmur. Now you testify that you heard the Japanese shout.

COLONEL STICKNEY: I would like to break in at this point. Did he say he heard the Japanese murmur?

MR. WARD: Isn't that about what he testified: he heard the Japanese murmur and he heard the moans, or what sounded like moans.

COLONEL STICKNEY: Very well.

Q Is it because you realized that nothing but a loud shout could be heard from that distance and you are now changing your testimony?

A Is it not possible to hear when they exclaim this way as I am doing it (demonstrating)?

MR. WARD: At which time he uttered a low groan or grunt, may the record show. Ask him the same question again. It is not responsive.

COLONEL STICKNEY: Is the description by defense counsel agreeable with the prosecution?

MR. WARD: A low grunt.

MR. AITKEN: The witness grunted.

MR. WARD: May it also be put in the record that the defense believes it to be impossible if you are 20 yards away to hear what the emission of the witness was. Is that satisfactory with the prosecutor?

MR. AITKEN: Certainly not. That is pure argument. A voice might be very loud at the scene where emitted, 150 yards away, and reach a person 150 yards away in a very low tone of voice.

MR. WARD: That is not the testimony. He said that was what was emitted.

MR. AITKEN: That is the effect of it.

COLONEL STICKNEY: From this point on, I think it would be well when the defense or prosecution wish to explain things that are happening in the courtroom that, before covering the record with many extra lines, some agreement be attempted -- that they attempt to reach some

agreement as to what has happened. It is no trouble for the members of the Commission to know what is going on, but it is going to be difficult for the reviewing officer to know whether the description as given by the defense counsel is correct or whether the description as given by the prosecuting attorney is correct, and it would appear to serve no useful purpose, unless the description that is going to go to the reviewing authority be a matter on which the prosecution and the defense can agree.

MR. WARD: Off the record, I am willing to let it go as a low grunt.

COLONEL STICKNEY: You have already spread all this on the record. Everything has been spread on the record. I am asking for future moves to get away from this.

Q After you descended from the tree, did you again see the Japanese squad led by Captain Nanjo?

A Yes.

Q Where did you see them?

A They followed Captain Nanjo.

Q You saw them departing, is that correct?

A I did not see them leave, but I saw them no longer there.

Q Did you just now not state that you saw the Japanese again after you descended from the coconut tree?

A Yes.

Q When, after you descended the tree, did you again see the Japanese?

A I did not see them any more.

MR. WARD: Was my first question understandable to the witness -- translatable in Visayan?

INTERPRETER ZOSA: Yes, sir.

Q Did you see the Japanese when you were on the ground at the foot of the coconut tree?

A Yes, I saw them.

Q Where were they then?

A On the road; they were walking.

Q There was no underbrush between you and the Japanese at that time?

INTERPRETER ZOSA: Underbrush?

MR. AITKEN: Foliage, shrubbery on the ground.

MR. WARD: Foliage.

A There were grasses.

Q How high were these grasses?

A As high as this (indicating).

MR. WARD: Is it satisfactory if we put it about four feet?

MR. AITKEN: From where?

A (Witness again demonstrating) From the ground.

MR. WARD: Three feet.

MR. AITKEN: Yes.

Q No other bushes or shrubbery was between you and the Japanese, is that correct?

A No. Only some coconut trees.

Q Some coconut trees? How many coconut trees?

A There were many but I can't count them.

Q Did you not testify yesterday there was merely one coconut tree between you and the Japanese?

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INTERPRETER ZOSA: Yes, sir.

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MR. AITKEN: Yes.

Q No other bushes or shrubbery was between you and the Japanese, is that correct?

A No. Only some coconut trees.

Q Some coconut trees? How many coconut trees?

A There were many but I can't count them.

Q Did you not testify yesterday there was merely one coconut tree between you and the Japanese?

A I referred to the tree which was between the Japanese and the tree where I was.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Remind the witness, please, that he is under oath.

(The witness was reminded he was under oath.)

MR. WARD: Does he thoroughly understand that oath this time?

MR. AITKEN: I object to that.

COLONEL STICKNEY: I believe that was a little out of order.

MR. WARD: I withdraw it. What was the last question?

(The reporter read the last question and answer.)

Q There was a large grove of coconut trees there, however. Is that correct?

A Inside there were many.

Q You state you saw Captain Nanjo after you had descended the tree, that is correct again, is it not?

A No.

Q Where were you standing on the ground when you saw Captain Nanjo for the second time?

A I was not able to see him while I was on the ground.

Q Then you merely saw Captain Nanjo on this occasion of January 17 one time only, when you were in the tree, is that correct?

A Yes.

(At this time Mr. Ward spoke in a low voice to the court reporter.)

Q On direct examination ---

COLONEL STICKNEY: Just a moment, please. I would like to ask whether certain instructions were given to the reporter by defense counsel?

MR. WARD: Yes.

COLONEL STICKNEY: What were they?

MR. WARD: I told the reporter not to leave for a second, because my next question will elucidate. I wish her to read back some of her testimony, as she is the reporter that took it.

COLONEL STICKNEY: Very well.

Q Yesterday on direct examination you stated that you descended from the tree and hid behind that tree, you did not mention that you went to a bamboo grove, is that correct?

MR. AITKEN: I object to the question, and challenge the accuracy of the statement as to what the witness said. The witness testified, as I understand, that he descended from that tree and hid in the bamboo grove.

MR. WARD: The objection is a faulty one as the question is proper, and it is perfectly good cross-examination to ask him what he testified to yesterday. If counsel at this time cannot explain that testimony, the record will explain it itself. And at this time, if he answers that question, the record is going to be read back. I do not wish the record to be read now before he answers his question, however.

COLONEL STICKNEY: You have stated as a part of this last question that something was said yesterday and you have quoted, is that correct?

MR. WARD: There has been no quotation as yet, as far as I believe.

COLONEL STICKNEY: I would like the reporter to read this last question.

(Last question read by reporter.)

COLONEL STICKNEY: The objection is what?

MR. AITKEN: That he is misquoting the statement of the witness as noted, he says, "that you descended and hid behind the tree."

MR. WARD: That is perfectly good cross-examination, you can always ask the witness what he stated.

MR. AITKEN: You can ask him that, sure, I am objecting to your saying that he stated something he did not say.

MR. WARD: Then say, is that correct, he can say yes or no -- is that correct, or it is not correct -- that is a perfectly good question.

COLONEL STICKNEY: The objection of the prosecution is sustained.

Q Did you state yesterday on direct examination that you descended the tree and went to a bamboo grove?

A Yes.

Q At this time, I would like the testimony of the witness as to his direct examination on this point read back to the court.

COLONEL STICKNEY: I don't see the reason for that. It is in the record, it may or may not be in a particular paragraph of the record. The record is going to be studied closely by all members of the Commission, and whatever is in there will be noted, but it might take considerable time and then we might read the wrong paragraph.

MR. WARD: That is what I mean, I have the correct paragraph, it is very short and it would facilitate the question considerably because the witness did not state on direct examination he went to a bamboo grove.

COLONEL STICKNEY: Without reading the entire examination, I don't see how we can say he did not say it sometime yesterday without reading all yesterday's testimony.

MR. WARD: The reporter and I have just gone over his testimony and we have just finished reading it.

COLONEL STICKNEY: I believe it is improper to read any one paragraph of the record and examine it because it was not said in that paragraph, it was therefore not said yesterday.

Q It is your testimony now, however, that you did go to the bamboo grove, is it not?

A Yes, and now I say that I went also under the bamboo grove.

Q And it was from this bamboo clump that you heard these moans or shouts -- what was the correct answer?

A I heard the grunts under that bamboo clump.

COLONEL STICKNEY: Just a minute, please, what is the word "groan" or "grunt"?

A I heard the grunt from under the clump.

COLONEL STICKNEY: You heard the grunt from under the clump.

Q And these grunts came from a distance beyond the tree formerly referred to in your testimony, is that correct? And indicating the tree approximately 130 yards away.

MR. AITKEN: One hundred twenty-five yards away, anything in there, that is all right.

COLONEL STICKNEY: There have been so many trees mentioned here -- you are now pointing to a tree here in Manila, and whether that is supposed to represent the bamboo tree, and if so, where he is supposed to be -- frankly, I have been confused a great deal myself, and I don't see how any witness could be anything but confused. We have considerable testimony and considerable distances and they may all be wrong, and they may be right. However, we do have a bamboo

clump on Negros, we do have a coconut tree on Negros, and we do have a road on Negros, and I see no reason for adding to the confusion by pointing to smoke stacks any further. Once I think is enough for these smoke stacks, and I think once is enough of that tree over there.

MR. WARD: I can re-word the question, I think it will be satisfactory.

Q From where you were under the bamboo clump you heard these grunts from the Japanese, is that correct?

A Yes.

Q How long did you hear these -- oh, is that all of the answer?

INTERPRETER GENOVES: Not yet.

MR. WARD: Excuse me, I will withdraw my last question.

INTERPRETER GENOVES: That is all.

Q How long did you hear these grunts from the Japanese?

A Approximately one-half an hour.

Q Did you tell Demetria Villas about what you heard, and what you saw in respect to her father and Doroy?

A I did not tell her, I only informed her that they were already killed.

Q Did you tell Demetria that her father was taken to Concepcion?

A I did not tell her that her father was taken to Concepcion, I only told her that her father was killed.

Q What happened to the bodies of Villas and Vera after you discovered them?

A We buried them.

Q Immediately?

A ✓ That was on Friday afternoon -- Friday afternoon 19 January 1944.

Q Where were the bodies taken after you found them?

A In the same spot.

Q You mean these bodies were left until the next day to be buried, is that correct?

A Yes.

Q ✓ You saw the Japanese on Thursday afternoon then, is that right?

A Yes.

Q Are you sure it was Thursday?

A I saw the bodies on Wednesday.

Q On Wednesday. Then they were buried the next day, is that correct, Thursday or Friday, which?

A Friday.

Q Then they were left in the road for a day and a half or so, is that right?

A They were left at the place where they were killed.

Q Then they were not buried the next day, is that right?

A No.

Q Did you tell Demetria that her father was executed on the 18th day of January, that is, Thursday, 1944?

A No.

Q You told her nothing about how her father met his death, just that he was dead, is that correct?

A Yes.

Q Did you speak to an investigator in Negros about the deaths of Vera and Villas?

A Yes.

Q Did you tell that investigator that you did not know any of the Japanese in that group?

A I told him that I know in that group of Japanese, Captain Nanjo.

Q Did you sign a statement before that investigator?

A Yes.

Q Was it in English or Visayan?

A In English.

Q Did you read that statement and understand it before you signed it?

A Yes.

Q You are able to read that statement, is that correct?

A Yes, they told me to read it.

Q Will you please read, (indicating the Manila Bulletin) this paragraph starting with "while."

A "While the interest tax provides" --

COLONEL STICKNEY: I want you to read it loud and distinctly, and have the reporter get it the way you read it. I don't want anyone else to do any reading except this man. We all want to hear it.

INTERPRETER GENOVES: Suppose, sir, I cannot read the letters only because I know a little English, what shall I do?

MR. WARD: He was reading satisfactorily just a second ago -- read it the way you were reading it.

COLONEL STICKNEY: I would like to know from the defense counsel what he wants done in the case he comes upon words that he can't read, do you want him to state he can't

read them, is that correct?

MR. WARD: Yes.

COLONEL SPICKNEY: If he can't read a word he should state he can't read the word.

A "While the interest tax provided in the 12 Revenue Measure passed by the Philippines Congress were shouldered on the taxpayer's ability to pay, it is the public that will eventually shoulder most of the additional burden."

MR. WARD: That is satisfactory, thank you.

Q Then, you were able to read and understand your statement in English perfectly, is that correct?

A Yes.

Q Have you seen that statement since you originally made it and gave it to the investigator?

A Yes.

Q When did you see it?

A When I went to the CID.

Q How many days ago was that?

A A long time ago.

Q Have you seen it since?

A No more.

Q A long time ago is how long?

A I can't recall.

Q One month, two months.

A More.

Q Six months?

A I don't know, but maybe more than that.

Q Have you spoken to this gentleman since you have been here, Mr. Aitken?

A Yes, when I was here.

Q Did he let you see this piece of paper?

A No.

Q Did he read to you from that piece of paper?

A He was reading on that piece of paper.

MR. WARD: At this time the defense --

MR. AITKEN: Wait a minute, he is not through.

A (Continued) But he only asked me questions.

MR. WARD: At this time the defense requests that they see the piece of paper referred to which was obviously used to refresh the witness' memory.

MR. AITKEN: What was that?

MR. WARD: At this time the defense requests to see the piece of paper, or affidavit, referred to which was obviously used to refresh the witness' memory, which influenced his testimony today. It is the right of the defense to see that piece of paper.

MR. AITKEN: The witness testified that the counsel questioned him from a piece of paper that he had himself, and he only asked him questions, and that is his testimony.

MR. WARD: In addition to that he states he saw this piece of paper, which was evidently made out by a prosecution investigator, around six months ago.

MR. AITKEN: I know nothing about the papers of six months ago.

MR. WARD: He stated he saw this piece of paper approximately six months ago.

MR. AITKEN: Our private notes are not open to inspection.

MR. WARD: This is not a private note, it is an affidavit used to refresh the witness' memory -- it has been used to refresh the witness' memory and obviously if his testimony differs from what he originally stated to those investigators, especially as the testimony at this time is so ambiguous, to say the least, the defense has the right to see that piece of paper and cross-examine him on it.

MR. AITKEN: The defense has no right to call for the prosecution's private papers. Furthermore, there has been nothing said about any affidavit that was in my possession or that I had read from any affidavit. I have a great many papers here and I carry them about with me in a case, and when I talk to a witness I may have a hundred papers with me. The witness testified I asked him questions, and he did not testify that I read to him from anything that tended to refresh his memory.

MR. WARD: It is twofold, this argument, first, that Mr. Aitken read to the witness asking him questions. He used a piece of paper to ask him questions. Of course, it is merely an assumption, a very good one, a probability, that he is using the affidavit as written and signed by the witness. That is one part, that in itself would be sufficient for the defense to see this piece of paper, which is obviously a different story. Secondly, he states he saw that paper six months ago when obviously he was interviewed again by the CID that refreshed his memory. These events occurred in January, 1944, six months ago he saw this piece of paper. The defense sits on its rights -- as it were -- to see that piece of paper and have the right to cross-examine the witness as to

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the piece of paper. Obviously he is hiding something from the testimony so far.

MR. AITKEN: The effect of counsel's request, if acceded to by the Commission would be this, that would give the defense the right to go into the offices of the prosecution and ask to examine all papers in there that had to do with statements of anybody that were taken, and they have not that right.

MR. WARD: It means only that when a witness on the stand states he has refreshed his memory from a piece of paper, we can identify that paper at that time. We have the right to see any paper from which the witness refreshed his memory. He states on the stand he has so done, unless of course this is a different story.

MR. AITKEN: He also stated he refreshed his memory, and that nobody else --

MR. WARD: I think the Commission heard the question asked, "About six months ago," that he saw and read the paper.

COLONEL STICKNEY: The request of the defense counsel, unless objected to by other members of the Commission, is denied. I know of no right --

MR. WARD: It is a rule of law, sir, that we are entitled to examine those papers from which the witness testified. It is his testimony as he remembers it. He is testifying from a piece of paper. Now, if he is testifying from a piece of paper, the rule of law states you are entitled to see any piece of paper from which he refreshes his recollection. And the paper is the testimony and not the witness in this instance -- especially, if it happens to differ.

COLONEL STICKNEY: Unless objected to by other members of the Commission, the request to have the prosecution turn over any piece of paper which they may have, against their will, is denied.

Q Calling your attention, back in January, 1944, when you were visited by Captain Nanjo and interrogated for about a half hour, questioned for about a half hour, you state that it was Captain Nanjo, is that correct?

A Yes.

Q All right. Have you ever been during January or December at the garrison at Boroboro?

A No.

Q Have you ever seen Sgt. Major Fujimaki?

A No, I don't know him.

Q You are certain it was not Sgt. Major Fujimaki that questioned you at that time?

A What date do you refer to?

Q The only time you were questioned by the man you alleged as Captain Nanjo?

A It was Captain Nanjo.

Q Were you ever connected with the guerrillas?

MR. AITKEN: Objected to.

A No.

MR. WARD: Counsel already has allowed me to go completely into the identification of Captain Nanjo. He was questioned for a half hour by that man -- this is certainly a question --

MR. AITKEN: The question has been asked and answered.

COLONEL STICKNEY: Do you withdraw your objection?

MR. AITKEN: The objection is withdrawn, the answer is already in the record.

Q During that half hour you were questioned by Captain Nanjo, were those questions relating to guerrilla affairs?

A Yes.

Q Do you live on a farm?

A Yes, on a farm in the barrio.

Q Do you grow produce, food?

A Yes.

Q Did you ever give any of that food to the guerrillas in that area?

MR. AITKEN: Objected to as incompetent, irrelevant, and immaterial. It doesn't make a particle of difference in this case whether he did or did not.

MR. WARD: It would make considerable difference if we can show that he was on good terms with the guerrillas. Obviously it could and will be developed that this was a grand scheme among the barrio producers that they were feeding those guerrillas at this time, and that there were common guerrilla activities in this area during this time, and after, if the Commission will take judicial notice during this case and other cases which have been before them.

COLONEL STICKNEY: The objection of the prosecution is sustained.

Q Was Juan Villas a guerrilla?

MR. AITKEN: The same objection. The only way to kill a guerrilla legally is by benefit of a trial or in action.

COLONEL STICKNEY: I didn't hear the name.

MR. WARD: Juan Villas -- one of the victims.

COLONEL STICKNEY: The objection of the prosecution is not sustained.

✓ A No, he was a civilian.

Q How do you know he was not a guerrilla?

A Ever since he was a civilian. Besides, he was very old.

Q How old?

A I do not know, but I know is that he was old.

Q Forty years old?

A More.

Q Fifty?

A According to my estimate, more than that, because he is old.

Q Sixty?

A Let us say fifty-five.

Q And it is because of his age you know that he was not a guerrilla, is that correct?

A Yes, because he was old.

Q Other than that you know of no reason why he was not a guerrilla?

A None.

Q There was great guerrilla activity in your vicinity, was there not?

MR. AITKEN: What sort of activity?

MR. WARD: Guerrilla activity.

MR. AITKEN: I object. The question is irrelevant, immaterial, and incompetent. What difference does it make in this case?

MR. WARD: I think it is obvious on its face. It is certainly a pertinent question.

COLONEL STICKNEY: Will the reporter read the reply of the defense counsel?

(The reporter read the last statement of Mr. Ward.)

COLONEL STICKNEY: The objection of the prosecution is not sustained.

MR. WARD: Will you please read the question?

(The reporter read the question.)

A No.

Q There was no guerrilla activity in your vicinity?

A No.

Q I am referring to the whole vicinity around your barrio, around Concepcion.

A They did not do anything.

Q Did Juan Villas ever give or sell any food to the guerrillas?

MR. AITKEN: That is objected to. In the first place it is immaterial and irrelevant; in the next place how can this witness know?

MR. WARD: The question is if he does know -- that is what we are asking.

MR. AITKEN: Even then it would be objectionable.

MR. WARD: Again it is obvious in its face. It was objected to on the same question to Demetria and the objection at that time was over-ruled. This is referring to one of the victims --Juan Villas I am speaking of.

COLONEL STICKNEY: The objection of the prosecution is not sustained.

(The question was repeated to the witness.)

A That is a thing I cannot tell you, because I have not seen.

Q Do you know whether he sold any food to the guerrillas?

COLONEL STICKNEY: I beg your pardon. Is this a question?

MR. WARD: Yes. "Do you know whether he sold ----"

COLONEL STICKNEY: "Do you know?"

MR. WARD: Yes.

MR. AITKEN: The same objection and the question has been asked and answered.

MR. WARD: No. He said, "I have not seen" -- it was not responsive the first time.

MR. AITKEN: That is what he said: "I do not know."

MR. WARD: He said, "I have not seen." I am asking if he knows. Hearsay is admissible under these rules of evidence.

COLONEL STICKNEY: The objection of the prosecution is not sustained.

A No.

Q ✓ How long had you known Juan Villas before January 17?

A I knew him since my boyhood.

Q ✓ As to Doroy Vera?

A I knew him also.

Q How long?

A He is of my age.

Q How long did you know him?

A ✓ Since the time we were small.

Q Was he ever a guerrilla?

COLONIL STICKNEY: I would like to make this clear. You are asking now about Vera?

MR. WARD: Yes.

A No.

Q Did Vera work on a farm?

A Yes, in the farm.

Q Did he ever give or sell any food to the guerrillas?

A No.

Q Did he ever help the guerrillas get members?

A No, I did not know.

Q In other words, neither Villas nor Vera nor yourself had anything to do with the guerrillas in Negros ever?

A No.

Q Are you married?

A Yes. This year I was married.

Q How long have you known Demetria Villas?

A I have known her for many years, since the time I visited her place.

Q Going back to the 17th day of January, when you saw and heard the Japanese, did you hear any shots?

A No.

Q There were merely knife wounds in the body, is that correct?

A They were bayonet wounds.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

MR. AITKEN: Please remind the witness he is still under oath.

(The witness was reminded he was under oath.)

Q When was the first time on January 17 that you saw the bodies of Villas and Vera? What time of day?

A At 4 o'clock in the afternoon.

Q 4 o'clock in the afternoon. How do you know it was 4 o'clock?

A That is according to my estimate, because I did not have any watch.

Q Could it be as early as 3 o'clock?

A No.

Q Could it be as late as 5 o'clock?

A No.

Q Could it be as late as 4:30?

A No.

Q It was just about 4 o'clock, right?

A Yes.

Q Where were the bodies of Villas and Vera in relation to the road?

A (Gesturing) It is this way. This is the road where I am sitting now, on that part.

Q On the side of the road, is that correct?

A No.

Q Were the bodies still on the road?

A No.

Q How far off the road were the bodies?

A From the place where I am sitting now to that track without the cover (pointing through door of the courtroom).

MR. AITKEN: Fifty yards I suppose.

MR. WARD: Okay, fifty yards.

Q Was that the same side of the road you were hiding?

A No.

Q Did you hear the Japanese take Vera and Villas to the place you found them?

A No.

Q How did you happen to go to that spot and find the bodies?

A Because I worked in that place.

Q Did you search ---

COLONEL STICKNEY: Just a moment. I don't think we heard the answer. Will the reporter read the answer?

(The reporter read the last answer.)

Q How soon after you left your hiding place did you find the bodies?

A Very soon after I left my hiding place I found their bodies.

Q How soon?

A Let us say around five minutes.

Q Were you not gathering tuba by the coconut tree when you first saw the Japanese?

A Yes.

Q You mean you left your place of work and went over and crossed the road, is that correct, and found the bodies?

A No.

Q How did you get to the place where the bodies were found, if you did not cross the road?

A Because the place where I worked was inside that garden.

Q Did you just not state that where the bodies were found was the place you worked as well?

A Yes.

Q And that is across the road, is it not?

A No.

COLONEL STICKNEY: I think that question was incomplete. Across the road from what?

MR. WARD: Across the road from where he was. He stated that ---

COLONEL STICKNEY: I don't care what he stated or any argument. It seems to me your last question was incomplete. However, it is just a suggestion.

MR. WARD: All right. We will correct it.

Q Were you not working gathering tuba at the coconut tree where you first saw the Japanese?

A Yes.

Q And did you not work where the bodies were found?

A I worked in that place.

Q Is there not a road to Concepcion going between those two places?

MR. AITKEN: What two places?

Q The coconut tree and the place where the bodies were

found.

A Do you mean the road between the place where I was gathering tuba and the place where I found the dead bodies?

Q That is right.

A No.

Q Did you not say that you found the bodies about fifty yards -- that is, from where you are to that truck (pointing through the door of the courtroom)-off the road?

A Yes.

Q And did you not say that that was on the other side of the road from where you were hiding when you saw the Japanese?

A Yes.

Q Could the bodies of Villas and Vera have been there before the Japanese came by?

A They were not there yet.

Q But you did not see the Japanese take them there?

A Yes, I said they were taken by the Japanese there.

Q Did you see the Japanese take them there?

A Yes.

COLONEL STICKNEY: What was the answer?

INTERPRETER ZOSA: "Yes, sir."

Q Are you sure this was not Thursday, January 18?

A No.

Q (To Interpreter) No, he is not sure?

A I am not sure if it was Thursday, but when it is Wednesday that was the day they were brought there.

Q They were not brought there on Thursday?

A No.

MR. WARD: That is sufficient.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No further questions.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Was Captain Nanjo well known in the vicinity of your home in the month of January 1944?

A Yes, sir.

Q Do you know what position he held at that time?

A Yes, a captain.

Q Do you know what troops he was in charge of?

A Boroboro.

Q Do you know whether his territory included hacienda Belogo?

A Yes, sir.

Q Did it include Concepcion?

A Yes, sir, because they even patrolled further than that.

Q What is Concepcion, is that a municipality or a barrio, hacienda, or what is it?

A Barrio.

Q Do you know hacienda Concepcion?

A No.

Q What is the difference between a hacienda and a barrio?

A A barrio is composed of a group of people who own their own land while a hacienda is a place which is owned by a hacendado where the inhabitants work for land owners.

Q Do you know whether Captain Nanjo's responsibility in January 1944 covered Granada?

A I did not know, sir, because Concepcion is far away from Granada.

Q And Belogo and Boroboro are close to Concepcion, is that correct?

A Quite far, around four kilometers.

Q Do you know how many men Captain Nanjo commanded in January 1944?

A Do you mean inside the garrison?

Q I mean, do you know how many men Captain Nanjo commanded in January 1944?

A I have seen only eleven men under him.

Q And was his garrison of eleven men at Boroboro at that time?

A Yes, sir.

Q Were there any other Japanese soldiers at Boroboro besides Captain Nanjo's garrison in January 1944?

A That is the thing, I cannot tell you, sir, because I have not been there.

Q How long previous to the middle of January 1944 was it that Captain Nanjo came and asked you questions?

A That was on January 10.

Q January 10. And, are you sure that the man you saw in the road while you were in the coconut tree, the man with the sword, was the same man who on the 10th of January had questioned you for a half hour?

A Yes.

Q I will ask you to look around the courtroom and see if you see that man here today.

A Maybe I can.

Q What do you mean by "maybe I can"?

A That I can point him out.

Q You can point him out?

A I am asking permission if I shall point him out.

Q Yes, I would like you to do that. Go ahead and point to the man that you think.

(Witness walks over and identifies the accused, saying):

A Honorable Commission, that is Captain Nanjo.

COLONEL STICKNEY: The record will show that the witness put his hand on the shoulder of the accused.

Q Now, this accused in the courtroom then is the man that you saw when you were in the coconut tree in the middle

of January, is that correct?

A Yes.

Q And who was with him at that time?

A He was with his Japanese soldiers.

Q How many?

A Eleven.

Q Anyone else?

A No, there were also two civilians.

Q Could you recognize the two civilians at that time?

A I was not able to recognize them, only at the time when they were already dead.

Q Are you sure that the two you saw dead are the two you saw in the road with Captain Nanjo?

A Yes.

Q How can you tell?

A One of them wore no upper shirt, and one had his clothes on but already torn.

Q Now, this coconut tree you were in, was that in the vicinity of Concepcion?

A Yes.

Q Was it in the vicinity of barrio Boroboro?

A No.

Q Was it in the vicinity of Balogo?

A No.

Q Did you see either of the Filipinos mistreated, tortured at that time?

A No.

Q Did you see either of them cut on either hand, or fingers, or thumbs?

of January, is that correct?

A Yes.

Q And who was with him at that time?

A He was with his Japanese soldiers.

Q How many?

A Eleven.

Q Anyone else?

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A Yes.

Q Was it in the vicinity of barrio Boroboro?

A No.

Q Was it in the vicinity of Balogo?

A No.

Q Did you see either of the Filipinos mistreated, tortured at that time?

A No.

Q Did you see either of them cut on either hand, or fingers, or thumbs?

A No.

Q Were you present when they were both buried?

A Yes.

Q When you were at the bamboo clump did you hear either of the Filipinos crying in pain?

A Yes.

Q Do you know which one it was?

A No, I was not able to ascertain.

Q Did he use any Visayan word in his cries of pain?

A No, he only moaned.

Q He only moaned, is that right?

A Yes.

Q Did the moan seem to come from one or both of the Filipinos?

A It came from both.

BY COLONEL MacKINTOSH:

Q Were there any other Japanese officers in the vicinity of Concepcion or Boroboro on the 17th of January, 1944?

A No.

Q The day before, were there any the day before?

A Where do you mean, sir?

Q The same place.

A No, he was the only captain.

Q Were there any the day after or two days after?

A None, I haven't heard of anybody else.

BY MAJOR FRITZ:

Q When you saw the civilians on the road, were they

walking or being carried?

A I saw them walking.

Q Was either one of them blindfolded?

A No, but I saw one blindfolded when I saw them ready at the place where they were killed.

Q How did the Japanese soldiers take the two civilians from the road to the spot where you found them?

A They were followed by the Japanese soldiers.

MR. WARD: Excuse me, I did not hear that answer.

COLONEL STICKNEY: Will the reporter read the answer, please.

(The reporter read the last answer.)

MAJOR FRITZ: If the Commission please, I would like the witness to draw us a diagram, to clear up this matter.

COLONEL STICKNEY: Will the witness come over here to Major Fritz?

(The witness approached the Commission bench.)

MAJOR FRITZ: The defense counsel and prosecutor will please come over here.

(Mr. Aitken, Mr. Ward, Mr. Schauer and an interpreter approached the bench.)

Q I shall ask you to point out to me on paper the location of various objects and the directions the patrol was going. (Indicating paper in front of him.) This is the road. Concepcion is this way. Boroboro is this way. This is the patrol. Which way are they going?

A (Indicating) Go in this direction.

COLONEL STICKNEY: The record should indicate that he pointed in the direction of Concepcion. Is that right?

MR. AITKEN: That is right.

Q The coconut tree where you were collecting tuba, where is it?

A (Indicating) This is the garden or coconut grove.

Q And in this coconut grove where was the tree? Is that the coconut grove?

A What tree do you mean?

Q Is this the coconut grove?

A Yes, sir.

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A (Indicating) This is the garden or coconut grove.

Q And in this coconut grove where was the tree? Is that the coconut grove?

A What tree do you mean?

Q Is this the coconut grove?

A Yes, sir.

Q Take this pen and put it approximately at the tree where you were gathering tuba when you saw the Japanese patrol.

A (Indicating with pen.) This is the coconut tree where I was gathering tuba. This is another tree. That means I was climbing the second tree from the road when I saw the Japanese patrol going in that direction.

Q The distance from here to here (indicating) is how far?

A (Indicating on map) That is what I say.

Q When you came down from the tree could you still see the Japanese?

A No.

Q The bamboo grove in which you hid -- put this pen on the spot.

A (Indicating with pen) From this tree I ran to this bamboo clump.

Q From the bamboo grove could you see the road?

A No, because the place has been covered by the bamboo clump.

Q On that day did you again see the Japanese on the road or off the road?

A I saw them when they were already going home.

Q Take the pen and point to me on the paper where you next saw the Japanese patrol.

A (Indicating) When I came out from my hiding place, I saw them in this place, going back in that direction.

MR. WARD: May the record show it is indicated by a dotted rectangle on the road.

Q Take this pen and put it approximately at the tree where you were gathering tuba when you saw the Japanese patrol.

A (Indicating with pen.) This is the coconut tree where I was gathering tuba. This is another tree. That means I was climbing the second tree from the road when I saw the Japanese patrol going in that direction.

Q The distance from here to here (indicating) is how far?

A (Indicating on map) That is what I say.

Q When you came down from the tree could you still see the Japanese?

A No.

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A I saw them when they were already going home.

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A (Indicating) When I came out from my hiding place, I saw them in this place, going back in that direction.

MR. WARD: May the record show it is indicated by a dotted rectangle on the road.

MAJOR FRITZ: Going in the direction toward Boroboro.

MR. WARD: In the direction of Boroboro.

COLONEL STICKNEY: I don't know, we want to indicate how it is shown. Is this piece of paper to be introduced as evidence?

MR. WARD: It is going to be a request of the defense that it will be; and either Mr. Aitken or myself can have it photostated.

COLONEL STICKNEY: Was that the intent of the member of the Commission?

MAJOR FRITZ: This is for my own information, because I was so confused with directions and locations and distances.

COLONEL STICKNEY: I believe before we leave this piece of paper we should indicate the relative positions of all places mentioned, understanding that it is only roughly to scale.

MR. AITKEN: It is a proper thing for a sketch like that to go in as a part of the witness' testimony.

MR. WARD: That is the only way the reviewing authority will be able to ascertain what the story is.

Q The distance from the bamboo grove to the tree is what?

A From the place where I was sitting to the truck without a top.

MR. AITKEN: About forty yards.

MAJOR FRITZ: The counsels agree the distance was forty yards, is that correct?

MR. AITKEN: That is what it is in the record.

Q Now, take this pen and put it on the spot where you found the two bodies.

A (Indicating) In this place.

Q From the bamboo grove could you see the two bodies at that spot?

A No.

Q Where did you hear the Japanese? And where did you hear the moaning?

A In that place.

COLONEL STICKNEY: The Commission will take a recess and will reconvene at 1300 hours.

(The Commission recessed at 1120 hours, to reconvene at 1300 hours.)

AFTERNOON SESSION

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, the accused and his private interpreter, the reporters and Interpreter Genoves are present in court. I understand that Filomena Zosa, who is acting as an interpreter, is being called to another court for another purpose.

At the close of the last session the witness, Cesar Lamio, was being interrogated by the Commission.

CESAR LAMIO

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreter Genoves:

MR. AITKEN: Will you remind the witness that he is still under oath?

(Interpreter Genoves interpreted to the witness.)

EXAMINATION BY THE COMMISSION (Continued)

BY MAJOR FRITZ: (Examination conducted at the bench.)

Q In your previous statement you stated that a certain part of the area between one point and another was covered with grasses this high, three feet, you show me where that area was.

MR. AITKEN: Let the record show that the interpreter, Filomena Zosa, came into the court.

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Q In your previous statement you stated that a certain part of the area between one point and another was covered with grasses this high, three feet, you show me where that area was.

MR. AITKEN: Let the record show that the interpreter, Filomena Zosa, came into the court.

A These are the places which were covered with deep grasses.

MR. AITKEN: The witness indicating on a sketch map.

Q What type of vegetation, foliage, brush, and trees were there between this point and this point?

A Lantana trees, coconut trees, and low grasses. There were also some banana plants.

MAJOR FRITZ: The two points which I designated were the point to which the witness was in hiding, bamboo grove, and the point where he later discovered the two bodies.

Q What is the distance between this point and this point?

A From this place where I am standing now to the barbed wire fence.

MAJOR FRITZ: Would the defense and the prosecution agree on a distance?

MR. WARD: In yards?

MR. AITKEN: Forty or fifty yards.

MR. WARD: A good fifty or sixty -- we had forty yards from here to the truck, from here to the fence could not be much more than twenty or thirty-five.

MR. AITKEN: I will pace it off. (Pacing off distance.) Forty fairly long paces.

MR. WARD: Which would be how many yards?

MR. AITKEN: Thirty-five yards, I guess.

MAJOR FRITZ: Forty paces?

MR. AITKEN: Forty paces but they were fairly long paces, I would say they were longer than thirty-inch paces.

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MAJOR FRITZ: Forty paces?

MR. AITKEN: Forty paces but they were fairly long paces, I would say they were longer than thirty-inch paces.

MR. WARD: The distance from here to the truck is certainly more than our estimate of forty yards before then.

MAJOR MacKINTOSH: He said fifty yards.

MR. WARD: And the relative distance between here and this smokestack is also much longer than the distance, relative distance between the banana tree and where he first saw the Japanese troops.

COLONEL STICKNEY: Let us go a little slower here, there is a lot that has to get into the record.

MR. WARD: And the relative distance from here to where the stack is, would you say that would be at least 200 yards according to your estimate from here to the fence, is that it?

MR. AITKEN: No, I did not say it was any 200 yards at all.

MR. WARD: If it is forty some from here to the fence or thirty-five, it would be fifty from here to the truck -- it would be 200 from here to the stacks.

COLONEL STICKNEY: Did you agree on fifty before?

MR. WARD: It was forty from here to the truck before, but now that Mr. Aitken has paced it off, he says it is forty or thirty from here to the fence.

MR. AITKEN: It is only about the distance from the truck to the fence.

MR. WARD: That would be a good 150 then, is that correct?

MR. AITKEN: Yes.

COLONEL STICKNEY: Let's go a little slower here.

We have a lot to get in.

MR. WARD: The distance then from the Japanese patrol to the coconut tree is 150 yards rather than 125 as we have designated in the small diagram.

COLONEL STICKNEY: Is the prosecution agreeable?

MR. AITKEN: That is all right. I don't consider the small estimated distances.

COLONEL STICKNEY: And the distance now agreeable to both counsel from here to the barbed wire is what?

MR. AITKEN: I would say thirty-five yards.

MR. WARD: Mr. Aitken paced it off.

MR. AITKEN: It is forty long paces.

MR. WARD: And the distance from the bamboo clump to the coconut tree would be a good fifty?

MR. AITKEN: Yes.

MAJOR FRITZ: Now, one last question.

Q When you saw the patrol going along the road to Boroboro, how many men did you see?

A Eleven.

Q Of those eleven, how many, if any, were civilians?

A No civilian was there.

MAJOR FRITZ: That is all I have.

BY COLONEL STICKNEY:

Q I would like to ask -- from this grove to Concepcion was how far?

A This place here is within the vicinity of Concepcion.

Q And if there was a kilometer post "0" at Concepcion, what kilometer post would be here?

A Do you mean the market place in Concepcion?

Q From the center of Concepcion to -- just a minute --

MAJOR HERR: That would probably be the market place.

Q Yes, from the center of Concepcion to the grove of coconut trees here.

A From the center of Concepcion, that is the market place, it will not be a kilometer.

Q And from the grove to Boroboro is how many kilometers?

A According to my estimate more than three and one-half kilometers.

Q And from the grove to Balogo is how many kilometers?

A I don't know.

Q Have you ever been to Balogo?

A Before the war I used to go to Balogo.

Q What is your estimate of the distance from Balogo to this grove?

A I think more or less four and one-half kilometers.

Q And this road in the sketch that goes by the grove, is that the Granada-Concepcion or the Talisay-Concepcion road or the Dos Hermones-Concepcion road?

A This road is leading from Granada to Boroboro, and from Boroboro to our place, that is Concepcion.

MAJOR HERR: Is it a paved road or just cut through the coconut groves.

A That is quite a large road because that was constructed by the government.

BY COLONEL STICKNEY: (Continued)

Q Was it passable to motor vehicles?

A Yes.

Q Was it a paved road?

A Yes, immediately after it had been constructed vehicles could pass through but now it is impassable for motor vehicles to pass.

Q And what was the condition on the 15th of January, 1944?

A No, it was impassable already.

COLONEL MacKINTOSH: Did you ever see any Japanese besides an officer carry a sword?

A No.

COLONEL STICKNEY: Are there any other questions by the defense?

MR. WARD: Yes, following that last question through.

RECROSS EXAMINATION

BY MR. WARD:

Q Is that the way you designate an officer by the carrying of the sword?

A No, because I know him to be Captain Nanjo.

Q That is not answering my question. Will the reporter please read my question.

(Question read by reporter.)

A Because I know him, that he was Captain Nanjo.

Q My question again -- did you designate a man to be an officer because he carried a sword?

A No, when I do not know him that he is an officer I will not say so.

Q As to this map here, where were you when you saw the patrol returning to Boroboro -- designate please.

A (Witness marked on map) I was in this place after I have left my hiding place.

Q Do you mean you left your hiding place before the Japanese had gone, is that correct?

A Yes.

Q Why did you state on cross-examination that you never saw the Japanese except once when they were coming on the road at this place, designating the first place you saw the Japanese on the map?

A I did not say that.

Q What part of the civilian's clothing were torn when you saw the civilians from the tree?

MAJOR FRITZ: There was one thing, I believe, should go in there -- that after you asked your question, "Where -- what was his position when he saw the Japanese returning," that he indicated a point approximately -- what would you agree on?

MR. WARD: Fifteen or twenty yards.

MR. AITKEN: I don't know -- a few yards, that is not to any scale.

MAJOR FRITZ: Relatively it was about twenty yards?

MR. AITKEN: That is good enough.

MAJOR FRITZ: A point about twenty yards from his hiding place in the bamboo grove toward the road.

MR. WARD: This slight off scale map that we have here -- I think it would be advisable as soon as the Commission is through with it, that we give it to our investigator to have it photostated and have it put in evidence.

COLONEL STICKNEY: Do you want that as a defense exhibit?

MR. WARD: Defense exhibit or prosecution's exhibit.

MR. AITKEN: It is a part of his testimony under cross-examination -- it is a defense exhibit.

COLONEL STICKNEY: It was not in the cross-examination, it was in the examination by the Commission.

MR. AITKEN: It makes no difference -- I will offer it for the Commission, if the Commission requires it. It isn't strictly a document of mine.

COLONEL STICKNEY: I think the member of the Commission has stated he wanted it for his own personal use.

MR. WARD: Yes, but at this time it is a paper from which the witness has testified. We will gladly give the Commissioner back his paper, but we would like to have it photostated and put into evidence.

COLONEL STICKNEY: As a defense exhibit?

MR. WARD: That is right, it will be admitted as soon as we have it photostated.

MR. AITKEN: Why don't you offer it as a part of his testimony, subject to withdrawal at the present time and substitution of the photostated copies.

MR. WARD: We can do that if you wish.

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MR. AITKEN: Why don't you offer it as a part of his testimony, subject to withdrawal at the present time and substitution of the photostated copies.

MR. WARD: We can do that if you wish.

MR. AITKEN: It is a mere suggestion.

MR. WARD: We will at this time offer the piece of paper requesting its withdrawal so we may have it photostated and later admitted.

COLONEL STICKNEY: I suggest if the defense wants this as evidence, that when he presents his case, that he present it as a defense exhibit.

MR. WARD: It will be out of turn, however, and will not be in the correct part.

COLONEL STICKNEY: Put it in turn.

MR. WARD: Refer back, you mean, to our present testimony?

COLONEL STICKNEY: That is right.

MR. WARD: Satisfactory.

Q What part of the civilian's clothes were torn when you saw him from the tree?

A At the back and in the front.

Q The back and front, and what part of the clothing on the person -- you can indicate on your own person.

A Here in this place here.

MR. WARD: The witness indicated his right shoulder and the right breast.

Q Did you notice any other places of the civilian's clothing being torn from your position in the tree?

A No more.

Q Did you not say that there was something on the back, a minute ago?

A This is what I mean on the back.

Q The right shoulder?

COLONEL STICKNEY: For the benefit of the reviewing officer who is the only one that needs to know, it should be shown that both times when the reference has been to the shoulder it was pointed out slightly in the rear.

MR. WARD: Slightly in the rear, correct.

Q And it was the right shoulder, of that you are certain, correct?

A I cannot exactly say, but I say this place (indicating shoulder).

COLONEL STICKNEY: Pointing again slightly to the rear of the right shoulder.

Q And where was the civilian in relation to the other eleven Japanese when you saw him?

A They were in the center of the Japanese.

Q You mean that there were Japanese on either side of him in a military formation?

A No, they were followed by the Japanese.

Q Then the civilians were not among the Japanese, is that correct?

A They were together.

Q Will you indicate the formation of the Japanese and the civilians on this piece of paper and with this pencil?

A (Drawing diagram on paper) This is the formation. These are the Japanese. These are the two civilians and these again here are Japanese.

COLONEL STICKNEY: Before we go farther, be sure that the members of the Commission for whose benefit this is,

know what is going on.

MR. AITKEN: The witness indicated by certain marks, certain Japanese, and then by two marks indicating on the same line as the others, there were two civilians and then on a prolongation of the same line by certain marks, more Japanese. In other words, the two civilians between two squads of Japanese on a line.

A They were very close to each other.

MR. WARD: And has the Commission fully recognized the formation?

COLONEL STICKNEY: Yes.

Q Where was Captain Nanjo in this formation?

A He was here ahead of them -- he was the one leading.

Q You have only indicated ten men including Captain Nanjo, ten Japanese, that is including Captain Nanjo -- where was the eleventh man?

A I did not say that there were only ten; I said there were eleven including Captain Nanjo.

Q Where is the eleventh man?

A He was the eleventh ahead of the ten men.

Q You have five men before the two?

A You have Captain Nanjo, five Japanese soldiers, two civilians.

Q And four Japanese soldiers, that makes only ten including Captain Nanjo -- where was the eleventh Japanese?

A I thought that I will designate by just putting there the place but as they required me the number of lines to designate the number of Japanese, I can add the number.

Q Add it and tell me where it should go.

MR. WARD: That is sufficient. The witness designates the tenth Japanese soldier to be in the last group of Japanese making five instead of four that were following the two civilians. This whole formation is in single file.

Q How close were these men walking in relation to each other?

A Like this (indicating distance).

MR. WARD: The record will show about one and one-half feet between each man -- is that correct, Mr. Aitken?

MR. AITKEN: That will do.

Q Have you seen a picture of Captain Nanjo?

A Here?

Q Before, any time?

A Yes.

Q Where did you see it?

A When my house was raided.

Q My question was -- have you seen a picture of Captain Nanjo?

A No.

Q You have never seen a picture of Captain Nanjo, is that correct?

A No.

Q You did not see a picture of Captain Nanjo since you have been in Manila?

A No.

Q You stated yesterday you could not identify Captain Nanjo, is that correct?

A Yes, because I seem to forget. It was a long time ago.

Q But today you can identify Captain Nanjo with no trouble, is that right?

A Because when you see the person whom you have met before you can recall, if you see his face again.

Q Was Captain Nanjo in court yesterday?

A It seems he was here also.

Q But you could not recall his face then by looking at it, is that correct?

A You mean yesterday?

Q Yes.

A I was trying to recall whether he was the real man.

Q Did you see the Japanese leave the place where you found the bodies?

A Yes.

Q Did you see them at the place where you found the bodies?

A No.

Q How far from the place where you saw the bodies did you see them first?

A (No answer.)

Q (Handing diagram to witness.) Where were the Japanese when you first saw them, after they left this place? (Indicating)

COLONEL STICKNEY: Can it be known --

MR. WARD: That is where the bodies were found.

A I saw them in this place while they were starting for Boroboro. (Indicating)

MR. WARD: And the place indicated on the map is the dotted line back on the road.

Q You never saw the Japanese off this road from Concepcion to Boroboro, is that correct?

A I saw them.

MR. WARD: That is not responsive.

Q Did you ever see the Japanese off this road?

A No.

Q Did you talk about this case last night with any of the other witnesses?

A No.

Q You did not talk about this case last night, is that correct?

A No.

Q You never told Miss Villas that you saw her father killed on the 18th of January, is that correct?

A No.

Q What was the length of time between your first vision of the Japanese on the road, and when you then saw them again returning to Boroboro? What length of time intervened? How long?

A Around one hour.

Q And you saw them leaving at four o'clock -- is that what you first said?

A Yes.

Q Then they first arrived there about three o'clock, is that right?

A Yes.

MR. WARD: That is sufficient. You may redirect-examine.

COLONEL STICKNEY: What was that?

MR. WARD: You may redirect examine. I was under a misapprehension. I forgot we had already gone through that.

MR. AITKEN: Nothing further from the prosecution.

COLONEL STICKNEY: The witness is excused.

(Witness excused)

MR. AITKEN: Will you send Purificacion Salon in?
This witness is called with reference to Specification 2.

PURIFICACION SALON

a witness for the prosecution, being first duly sworn, was examined and testified as follows, through Interpreters Zosa and Genoves:

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that she has been sworn and is under oath.

(The witness was reminded she was under oath.)

DIRECT EXAMINATION

BY MR. AITKEN:

Q Please state your name.

A Purificacion Salon.

Q Your age?

A Thirty-eight.

Q And your present address?

A Barrio Concepcion, town of Talisay.

Q Where were you on the 28th of June, 1944, if you remember?

A In Barrio Concepcion.

Q What were you doing there at that time?

A We butchered pigs.

Q When you say "we" to whom do you refer?

A My husband.

Q What was his name?

A Bartolome Toriano.

Q On the date mentioned were you and your husband in

the market then?

A Yes, we watched and sold the hogs we butchered.

Q You had a stall in the market there?

A No, only that butchering hogs.

Q Now did anything happen there that day, with reference to you and your husband and the Japanese?

MR. WARD: Objection, before the answer is read. The question is completely irrelevant, because there is no charge as to what happened during June. The charge is July. If they wish that something irrelevant be in the record it is objected to by the defense.

MR. AITKEN: I will withdraw the question.

Q Were you and your husband in the same business in July of 1944?

A Yes.

Q Do you remember an occasion when you and your husband were arrested by Japanese troops?

MR. WARD: Objection again. Unless the time is specified, it is irrelevant.

MR. AITKEN: The specification says in or about the month of July, 1944.

MR. WARD: The question had nothing to do with time.

MR. AITKEN: And it is a preliminary question, because the next question will be as to what date it was. I can't ask her all the questions at one time. I am asking her now what happened about that time. The next question will clarify the date. This is merely a preliminary question.

COLONEL STICKNEY: I would like to hear the question read.

(The reporter read the question.)

COLONEL STICKNEY: The objection is not sustained.

A My husband was apprehended by the Japanese on June 28, 1944.

Q Now were you present at the time?

A Yes.

Q Tell us what you saw happen.

MR. WARD: Objection again. This is again in June. We are concerned with what happened in July.

MR. AITKEN: The specification says in or about July, 1944, which might have been the month of June or July or it might have been August. We don't know just how far "in or about" might extend, but the witness has said about the 28th of June, which is pretty close to in or about the month of July, because it would be only three days off the first of July.

MR. WARD: You are attempting to specify in any kind of charge. There was already a motion to strike, trying to designate a correct date. They are charging a full month, that is thirty days, stating the defendant committed some act or his troops did something under his permission. Now they are bringing in an extraneous month. They have thirty days; they should have changed it.

COLONEL STICKNEY: The objection is not sustained.

(The question was repeated by the reporter.)

A They apprehended my husband and they took him to Boroboro.

Q Tell us all you saw. What did they do?

A The next morning he was taken to Bacolod Kempei Tai, to Captain Nanjo.

Q Who took him there?

A By Captain Nanjo.

Q Who arrested him in the market? Delete the question. Where was he when they arrested him?

A He was apprehended at the market.

Q At the market. And were you there?

A Yes.

Q Who apprehended him?

A Captain Nanjo was the one who apprehended my husband.

Q Was he alone, or did he have soldiers?

A There were some Japanese soldiers.

Q About how many?

A I was not able to count how many soldiers were with him.

Q Now, when they apprehended him where did they take him -- the first place?

A He was taken to Boroboro first and later he was brought to Bacolod Kempei Tai.

Q Now where did they keep him in Boroboro?

COLONEL STICKNEY: Hold that just a second. What was the last part of that answer?

(The reporter read the answer.)

Q Where did they take him first in Boroboro?

MR. SCHAUER: May it please the Commission, we would like to know whether the witness is now testifying as to facts which are within her own knowledge or which were related to her. If he was taken to these various places it

would indicate that she is now testifying as to facts which were related to her by someone else, and it is hearsay rather than something that happened within her own knowledge. And we would like to know which is the case.

MR. AIKEN: I will bring that out. There is a question there I believe unanswered.

(The reporter read the question.)

Q Answer what you know of your own knowledge.

A He was taken to Boroboro garrison.

Q Did you see him go to the garrison house?

A Yes.

Q Did you follow him there from the market.

A Yes.

Q How long did they keep him in the garrison house before they took him away?

A After he was apprehended in Concepcion, he was taken to Boroboro at about 10 o'clock, and he was brought to Bacolod at about 9 o'clock the next morning.

Q Did you see him the next morning?

A Yes. We accompanied him with my daughter.

Q How far from the garrison house at Bacolod did you accompany him at that time?

A A long way. It was more or less twelve to fourteen kilometers.

Q All right. How did you travel that distance?

A We rode in a train with Captain Nanjo.

Q Is there a station at Boroboro?

A Yes.

Q And is that where you took the train?

A Yes.

Q Was it the same train that your husband and Captain Nanjo and the soldiers were on?

A Yes.

Q Then, when they got to Bacolod what place or organization did they take him to?

A ✓ Captain Nanjo took my husband to the Kerpei Tai.

Q How long did they keep him there?

A He was brought to Bacolod garrison on the 29th, and he was taken out from the garrison on the 5th.

Q ✓ On the what?

A He was brought to the provincial jail on the 5th.

Q On the 5th of what month?

A July.

Q How long did they keep him in the provincial jail?

A Five days.

Q While he was in the provincial jail, did you try to see him?

A ✓ I was refused admittance, and I only saw him farther away.

Q How did you see him?

A We were at the side of the barbed wire fence.

Q And could you see him from there?

A Yes.

Q Now, do you know what became of your husband after that?

A Yes.

Q What?

A That he was returned to Boroboro by Captain Nanjo and he was killed.

Q Were you informed by whom he was killed?

A On my way to Boroboro to visit my husband, I met Captain Nanjo's soldiers and one of his soldiers informed me that my husband was killed.

Q Do you know who the soldier was?

A I don't know him.

Q Were you told by what soldier he was killed?

A He informed me that it was Captain Nanjo who killed my husband.

Q Well, did you ever see your husband after that?

A No more.

Q Did you ever find his body after that?

A I dug up his remains.

Q Who guided you to his remains?

A Lauro Mariano.

Q Did he point out the spot where your husband was buried?

A Yes.

Q Now, when was that you dug up his remains?

A November 2, 1945.

Q How did you recognize the body as the body of your husband?

A He had two gold teeth.

Q Where?

A Here (indicating in the front of the mouth). It was in this tooth was opened and had a crown and the other one was --

MR. AITKEN: An open crown?

A The left.

MR. AITKEN: The left cuspid, I think, they call it.

INTERPRETER ZOSA: She is pointing out the tooth.

COLONEL STICKNEY: I would like the reporter to read what she has there.

THE REPORTER: "Here. (Indicating in the front of the mouth) It was in this tooth was opened and had a crown and the other one was --

"MR. AITKEN: An open crown?

"A The left.

"MR. AITKEN: The left cuspid, I think, they call it."

COLONEL STICKNEY: Mr. Aitken, I wish you would leave the translation entirely to the interpreter.

MR. AITKEN: I am sorry. Except I would like the record to show that the witness indicated the tooth and it was the left upper, I think the cuspid, they call it. I don't know how the interpreter could even interpret a motion to her mouth.

INTERPRETER ZOSA: The witness is just indicating the place but is not describing the right tooth.

MR. AITKEN: I am not a dentist and I am not too sure of the names of the teeth, but we do have some information on it.

COLONEL STICKNEY: Can't the interpreter tell -- she perhaps saw it better than the Commission, what tooth it was.

A This one here had a crown.

MR. AITKEN: Pointing to an upper left.

A The one had a solid crown.

COLONEL STICKNEY: Is the defense satisfied with the description of the tooth as given by the prosecuting attorney?

MR. SCHAUER: Yes, that is all right.

COLONEL STICKNEY: Very well.

Q Now, did you exhume the body of your husband and re-bury it?

A Yes.

Q Now, at the time of the apprehension of your husband, was he connected with the guerrillas, or not?

A ✓ No, a civilian.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

MR. SCHAUER: I don't know whether the record shows that we are now proceeding under Specification 2, did you get that in?

COLONEL STICKNEY: Yes, it does.

BY MR. SCHAUER:

Q Was it at the market place that your husband was arrested in Boroboro -- pardon me, I believe it was Concepcion.

A No.

MR. SCHAUER: I will withdraw that.

Q Was it at the market place in Concepcion that your husband was arrested by the Japanese?

A Yes, in Concepcion.

Q Were you there at the time that the Japanese came to the market?

A Yes.

Q Was Captain Nanjo with the Japanese at that time?

A Yes.

Q Did you see Captain Nanjo at that time?

A Yes, I saw him.

Q What did Captain Nanjo say to your husband at that time?

A Taking for granted that he talked with my husband, I can't say anything because it was spoken in Japanese.

Q He spoke to your husband in Japanese, is that right?

A No.

MR. AITKEN: Speak out loud.

A No.

Q In what language did he speak to your husband?

A Japanese.

Q Did your husband understand Japanese?

A No.

Q Did anybody at that time interpret what Captain Nanjo said to your husband?

A No.

Q How long were the soldiers, were Captain Nanjo and the soldiers there before they took your husband away?

A They did not stay long.

Q Was it an hour?

A No.

Q You say this happened about ten o'clock on the 28th of June 1944?

A Yes.

Q That was ten o'clock in the morning, wasn't it?

A Yes.

Q What were you and your husband doing at the time that the Japanese came to the market on the 28th of June?

A We sold our butchered hogs.

Q Did you and your husband raise your own hogs?

A No, we bought them.

Q Then you and your husband were in the business of buying and selling hogs, is that correct?

A Yes.

Q How long had you and your husband been in that business?

A Since before the war.

Q You say that the soldiers, Japanese soldiers, took your husband to Boroboro from Concepcion, is that right?

A From Concepcion to Boroboro.

Q Did you follow your husband to Boroboro?

A Yes.

Q Were you right with him when he was taken to Boroboro?

A Yes.

Q Did he say at that time why he thought he was being taken by the Japanese to Boroboro?

A No.

Q Did you talk with him at all while you accompanied him to Boroboro?

A No.

Q Were you right next to him, or were you a few feet away from him?

A From this place where I am sitting to that chair there.

MR. SCHAUER: Say about thirty-five feet?

MR. AITKEN: What?

MR. SCHAUER: About thirty-five feet.

MR. AITKEN: Fifteen feet from where she sits to that chair.

MR. SCHAUER: Yes, in the back about thirty-five feet.

MR. AITKEN: No, it is less than twenty feet -- it might be a little over fifteen.

MR. SCHAUER: I will pace it off. (Pacing off distance.) It will be about, more than fifteen feet, it will be about twenty or twenty-five feet.

MR. AITKEN: Call it twenty feet, I am satisfied with twenty feet if the Commission is.

MR. SCHAUER: We will stipulate twenty feet.

MR. AITKEN: Twenty feet is all right. That is all right.

Q Did you hear Captain Nanjo say anything to your husband while he was being taken to Boroboro?

A No.

Q What time did your husband arrive at the Japanese garrison at Boroboro?

A I don't know. He was apprehended at about ten o'clock and we walked at a distance of about three or four kilometers.

MR. AITKEN: Tell the witness to speak up, there is nothing to be afraid of, tell her to speak up loud.

COLONEL STICKNEY: (To interpreters) Can you hear the witness all right?

INTERPRETER ZOSA: Yes, Sir.

Q What did you do after your husband arrived at the Japanese garrison at Boroboro?

A Because I was refused admittance I sent my son for Mrs. Beter.

MR. SCHAUER: Would you read that last answer please.

(Last answer read by reporter.)

Q Did you stay over-night at Boroboro?

A No, Captain Nanjo sent us home.

Q What did you do the next day?

A We went back to Boroboro and took the train to Bacolod.

Q When you went to Boroboro the next day did you see your husband?

A Yes, we were together on the train.

Q Did you sit next to each other on the train?

A I was sitting here, (indicating) and my husband there and the Japanese soldiers.

MR. SCHAUER: I believe the witness indicated her husband was sitting in front of her, would that be right?

MR. AITKEN: That is right.

Q Did you talk to your husband while on the train from Boroboro to Bacolod?

A No.

Q Did Captain Nanjo talk to him on the train?

A No.

Q Did you hear your husband say anything while he was on the train from Boroboro to Bacolod?

A No.

Q Did you talk to Captain Nanjo on the train?

A No.

Q Did you ask Captain Nanjo why your husband was being taken to Bacolod?

A Yes.

Q Did Captain Nanjo tell you why your husband was being taken to Bacolod?

A No.

Q Did you go with your husband after you arrived at Bacolod to the Kempei Tai headquarters?

A Yes.

Q Did you talk to your husband on the way to the Kempei Tai headquarters?

A No, because he was riding on a truck.

Q Did you ride on the same truck with him?

A No.

Q What did you do after your husband was taken to the Kempei Tai at Bacolod?

A Because I could not go with him I went home.

Q Did you ever see your husband again after that?

A No more.

Q From the time that the Japanese came to your market place on the 28th of June 1944 in Concepcion until the time you last saw him when he arrived at the Kempei Tai at Bacolod, did you ever talk to him?

A After he was taken to Bacolod Kempei Tai, I did not see him anymore.

Q After the Japanese came and took him from your market place in Concepcion on the 28th of June, did you ever talk to your husband after that time?

A No.

Q Did your husband ever talk to you after the Japanese came to your market place on the 28th of June?

A Before he was apprehended I talked with my husband, but after he was apprehended, I was not able to talk to him anymore.

Q Where was the provincial jail that you say your husband was taken to after he went to the Kempei Tai?

A Near the capitol building.

Q That is in Bacolod, is it?

A Yes.

Q You testified that he was kept at the Kempei Tai from June 29th to July 5th, is that correct?

A Yes.

Q And that on the 5th of July he was taken to the provincial jail?

A Yes.

Q Did you see him taken to the provincial jail?

A I did not see him taken to the provincial jail. When I asked the provincial guard whether Bartolome Toriano is in that jail, he said "yes" and he showed me the list of prisoners.

Q When was that?
A The same day -- the 5th of July.
Q Did you go back to Bacolod on the 5th of July?
A Yes.
Q Did you see your husband in the provincial jail?
A I saw him at a farther distance.
Q He was alive at that time, was he?
A He was still alive.
Q When did you return to Boroboro?
A I did not return to Boroboro.
Q Where did you go back -- did you go back to Concepcion then?
A I went back to Concepcion.
Q Was Captain Nanjo with you when you went back to Concepcion?
A No.
Q Did you see Captain Nanjo in Bacolod on the 5th day of July?
A Yes.
Q Where was he when you saw him?
A Central Bacolod.
Q How far is that from the provincial jail?
A More or less three kilometers.
Q Did you talk to Captain Nanjo on that day?

INTERPRETER ZOSA: Correction. The witness is making a correction: "two kilometers".

MR. SCHAUER: What was that last question?

(The reporter read the question.)

A No.

Q Did you go back to Concepcion the same day?

A Yes, I returned home.

Q How long after that was it that you talked to the Japanese soldier who told you your husband had been killed?

A Two days after I returned home.

COLONEL STICKNEY: The Commission will take a recess and will reconvene at 0830 hours on 9 October 1946.

(The Commission adjourned at 1445 hours, to reconvene at 0830 hours, 9 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME III

PAGES 166-238 INCL.

MANILA, P. I.

DATE: 9 October 1946

COPY NO. 1

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
9 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, Sig C

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHNER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd LT. HAKUZO NITTA	Japanese
Tec 3 TATEO SAITO	Japanese
FILOMENA ZOSA	Ilongo (Visayan)
PEDRO GENOVES	Ilongo (Visayan)
MACARIO E. BELAONG	Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

AE
LPK

I N D E X

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P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 9 October 1946, in Courtroom No. 3, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the Interpreter Genoves and the reporters are present in court. Will you remind the witness that she is still proceeding under the same oath previously administered?

(Witness reminded that she was still under oath.)

PURIFICACION SALON

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreter Genoves:

MR. AITKEN: At the close of the last session the witness, Purificacion Salon, was under cross-examination.

CROSS-EXAMINATION (Cont'd)

BY MR. SCHAUER:

Q Was it one of the Japanese soldiers that told you that your husband had been killed?

A Yes.

✓ Q Had you ever seen that soldier before the time when he told you that your husband had been killed?

A Yes, together with Captain Nanjo.

Q Was he with Captain Nanjo when your husband was arrested at the market in Concepcion?

A ✓ Yes.

Q When he told you that your husband had been killed, was that the only time that he ever talked to you?

A Do you mean the Japanese?

Q Yes.

A That was the first and the last time we talked together.

Q Did this Japanese soldier tell you how your husband was killed?

A ✓ No, he only told me that my husband was already killed.

Q Was your husband ever a member of the guerrillas?

A No, he was a plain civilian.

Q How old was he on the 28th of June 1944?

A Thirty-seven.

INTERPRETER GENOVES: Correction please, the witness said thirty-eight.

Q Isn't it true that your husband helped the guerrillas by giving them information about the Japanese troop movement?

A No, it is not true, he has never helped the guerrillas.

Q Did he ever sell or give any hogs to the guerrillas?

A No, we were selling our pork to the civilians because there were no soldiers in Concepcion.

Q When you saw this body that Lauro Mariano pointed out to you in November 1945, the only thing about it that you identified was the teeth, is that correct?

A Yes.

Q And it is only because of the teeth that you say that that was the body of your husband?

A Yes, because I exhumed the skeleton.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No further questions.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q In June and July of 1944, how long had you known Captain Nanjo?

A That was the time when he apprehended my husband, because the soldier said that he was Captain Nanjo, their commander.

Q Was that the first time you had ever seen him?

A Yes, Sir, that was the first time I saw him.

Q And then you rode with him on the train from Boroboro to Bacolod, is that correct?

A Yes, Sir.

Q And did you see him anymore after that?

A From the time he brought my husband to the Kempei Tai I have never seen him again.

Q Now, if he were present in this courtroom, could you point him out?

A Yes, I can point him out if he is here inside the room.

Q Will you look around and see if you see him, and if you do, walk over and point him out.

A Shall I stand up and point him out?

Q Yes.

(The witness walked over to the defendant and tapped him on the shoulder.)

A This is Captain Nanjo who is considered the bravest in Boroboro.

COLONEL STICKNEY: Will the record show that the witness placed her hand on the shoulder of the accused.

Q Did you see your husband tortured?

A Do you mean in Boroboro?

Q I mean in or about the month of July, at or near Boroboro.

A No, from the time they brought my husband to the provincial jail I was not to see any torture done to him. I was not able to see any torture done to him.

Q You have no knowledge of any mistreatment of your husband by the Japanese soldiers?

A I know not of the torture done to my husband in Boroboro, only in the Kempei Tai.

Q Did Lauro Mariano tell you of any torture inflicted upon your husband by the Japanese?

A No.

Q Do you know of any torture inflicted upon your husband at the Kempei Tai by soldiers under the command of Captain Nanjo?

A I was told by a guard in the provincial jail that my husband was mistreated.

Q Did he say it was done by the Kempei Tai or by the troops of Captain Nanjo?

A I cannot tell because I was not able to get in, I was just only seeing.

Q Did the Japanese soldier who told you your husband was killed tell you of any torture prior to the death?

A Yes.

Q What did he tell you -- I will withdraw that question. Did he tell you of torture performed by the men under Captain Nanjo?

A No, when we met at Boroboro, he told me that my husband was already killed. It was not right in Boroboro, it was on the way to Boroboro.

Q What was on the way to Boroboro?

A That was on the way from Concepcion to Boroboro. The place formerly was used for motor vehicle transportation.

COLONEL STICKNEY: Will the reporter read that please?

MR. AITKEN: I don't think the witness understands the question.

(Last answer read by the reporter.)

Q Well, did this Japanese soldier who told you that Captain Nanjo had killed your husband, tell you of any torture which Captain Nanjo's men had inflicted on your husband?

A Yes, he was mistreated and then killed.

Q And did he explain the nature of the mistreatment given your husband by Captain Nanjo's men?

A No, because after that he went away.

Q Where was the provincial jail?

A Coming from the capitol building it will not take you a half kilometer and then is the provincial jail, but I do not know in what street it is.

Q That is coming from the capitol building at Bacolod City?

A Yes, Sir.

Q What did Mariano tell you about your husband's death?

A Mariano did not tell me anything concerning the killing of my husband. He only told me that my husband was killed by the Japanese, and then he told me also that if I ever want to see where my husband was buried he can show me -- that was in November 1945.

Q When he was talking to you, did he mention Captain Nanjo?

A Whom do you say, Sir?

Q Did Mariano mention to you Captain Nanjo?

A Yes, Sir.

Q What did he say about Captain Nanjo?

A That Captain Nanjo was the one who killed my husband.

Q Did he say anything to you about your husband being tortured?

A He was not able to see the torture given to my husband

only that he saw my husband being killed.

Q Do you know where your husband was killed?

A Yes.

Q Where was it?

A At Boroboro.

Q Do you know how he was killed?

A Maybe by bayonet, because I saw his ribs broken.

Q Did either Mariano or the Japanese soldier tell you of the manner in which he was killed?

A No.

Q Was your husband the only prisoner apprehended at the time he was apprehended?

A He was the only one in Concepcion.

Q Do you know what position Captain Nanjo held in July of 1944?

A He was the captain of Boroboro.

Q Do you know whether or not his duties took him often to Concepcion?

A Yes.

Q Did his command at Boroboro cover the area which would include the Barrio of Concepcion?

A Yes, it extended up to Concepcion.

Q Did you say that Mariano told you that your husband was tortured?

A Mariano did not say my husband was tortured.

Q Did you say that the Japanese soldier told you that he was tortured?

A Yes, the Japanese soldier told me.

only that he saw my husband being killed.

Q Do you know where your husband was killed?

A Yes.

Q Where was it?

A At Boroboro.

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Q Did his command at Boroboro cover the area which would include the Barrio of Concepcion?

A Yes, it extended up to Concepcion.

Q Did you say that Mariano told you that your husband was tortured?

A Mariano did not say my husband was tortured.

Q Did you say that the Japanese soldier told you that he was tortured?

A Yes, the Japanese soldier told me.

Q Just what did he say about the torture of your husband?

A They were trying to force my husband to say that he was a USAFFE, but my husband was not a USAFFE and so he was tortured.

Q Well, did he say whether they beat him with a baseball bat, or gave him a watercure, or what they did to him to try to make him confess?

A No.

Q Will you tell me just what Mariano told you about your husband's death?

A He told me that if I went to exhume my husband he will point out to me the place where my husband was buried. That is all.

Q Did he say that he buried your husband?

A No more.

BY MAJOR HERR:

Q Do you know whether your husband was killed where he was buried?

A Yes, I know.

Q At that spot where he was buried?

A Yes.

BY COLONEL STICKENY:

Q How do you know that the place where he was buried was the place where he was killed?

A Because Mariano told me so.

Q Did Mariano say that he saw your husband killed?

A Mariano was able to see my husband dead and buried with a part of the body could still be seen, because the time my husband was being killed Mariano went away and hid himself. Later on when the Japanese had left the place,

Mariano went back to the place where my husband was killed and saw that it was my husband who had been killed and then he added the covering to my husband.

COLONEL STICKNEY: Will you read that to me, please?

(Last answer read by the reporter.)

Q Did Mariano speak of Captain Nanjo in connection with the death of your husband?

A No.

Q Did Mariano say whether your husband was killed by the bayonet, or otherwise?

A Mariano was looking when my husband was being bayoneted and then he went away.

Q And did Mariano tell you that your husband was bayoneted at that time?

A Yes, sir.

Q Now, did Mariano say anything to you in connection with this bayoneting about Captain Nanjo or his soldiers?

A During the time my husband was bayoneted Captain Nanjo was there holding his saber.

Q How do you know that?

A Because Mariano told me so, that he was looking at the time they were there.

Q Now, is this accused, Captain Nanjo, the man who was well-known around Eoroboro and Concepcion in the middle of 1944?

A Yes, it is known that he is the captain.

Q Were there any other captains around there at that time?

A No, no others, it was only Captain Nanjo.

Q Did you ever hear of more than one Nanjo around that vicinity at that time?

A No others.

BY COLONEL MacKINTOSH:

Q Do you know who was in charge of the garrison at Bacolod?

A No.

Q Was Captain Nanjo in charge there?

A Do you mean Bacolod?

Q Yes.

X A No. What I know is that Captain Nanjo was the one in charge of the garrison at Boroboro.

BY MAJOR FRITZ:

Q Is it correct that your husband was released from the provincial jail and returned to Boroboro?

A Yes. He was taken from the provincial jail and back to Boroboro.

Q Was he free or was he in the custody of the Japanese soldiers?

A ✓ He was still under the custody of the soldiers.

Q The soldiers then in charge of your husband -- were they Captain Nanjo's men, or were they the Kempei Tai.

✓ A I do not know, but what I know is that it was Captain Nanjo in charge of the group of soldiers who took my husband from the provincial jail back to Boroboro.

Q How do you know that?

A Because one week after I went back to Bacolod to look for a bail for my husband and when I went to the provincial jail I was told by the guard that Captain Nanjo had taken back my husband to Boroboro.

BY COLONEL STICKNEY:

Q Can you describe the place where your husband was killed?

A If I were in the place where my husband was killed, maybe I can point out, but here I cannot give accurate description, because I do not know to make sketch or drawing.

Q Was it in the center of the barrio, or was it out in the country?

A It is within the garrison --- (at this point there was considerable discussion between the interpreter and the witness and the answer was not completed by the interpreter).

COLONEL STICKNEY: I will withdraw that question.

Q Was your husband buried in somebody's yard or out in the field or in a grove of trees? What sort of a place was he buried in?

✓ A He was buried in the garden of some resident in the barrio.

Q And do I understand that your husband was turned loose at the --- is there some more?

A (Continued) He was buried in the garden. This place from where I am sitting now is the garrison to that place there (pointing to a point outside of the courtroom) that automobile behind the fence.

COLONEL STICKNEY: Will the defense and prosecution get together on the distances?

MR. SCHAUER: Which automobile would that be?

MR. AITKEN: The one behind the fence, she said.

MR. SCHAUER: This one on this side of the fence?

MR. AITKEN: Behind the fence, the jeeps.

COLONEL STICKNEY: A jeep, is it?

MR. SCHAUER: There are a number of jeeps behind the fence.

MR. WARD: It is the jeep, she said.

COLONEL STICKNEY: Are you sure it is the jeep?

THE WITNESS: That jeep there.

MR. AITKEN: (To the interpreter) Tell us what she says.

INTERPRETER GENOVES: That automobile from where a man is ---

MR. SCHAUER: That would be the truck way over there.

COLONEL STICKNEY: Let us get it from this man right here.

INTERPRETER GENOVES: Those shrubs there, where a banana tree is behind.

COLONEL STICKNEY: Do you both get the place?

MR. SCHAUER: I think it is that truck there by that clump of trees.

MR. AITKEN: She used the word "banana tree" so that helps indicate it.

COLONEL STICKNEY: Will you get what she said about the banana tree?

INTERPRETER GENOVES: "That clump there where the banana tree is behind."

COLONEL STICKNEY: Can you agree on the distance?

MR. AITKEN: Do you want to call it 125 or 150 yards? Whatever you call it is satisfactory.

MR. SCHAUER: 125. It doesn't make any difference.

MR. AITKEN: All right.

COLONEL STICKNEY: No more questions by the Commission. Anything from the defense?

MR. AITKEN: The prosecution has ---

COLONEL STICKNEY: Let us have the defense.

Anything from the defense?

MR. SCHAUER: Yes, if the Commission please.

FURTHER CROSS EXAMINATION

BY MR. SCHAUER:

Q The last time you saw your husband he was in Bacolod, was he not?

A Yes, that was the time when they came from Concepcion.

COLONEL STICKNEY: "When they came," interpreter?

INTERPRETER GENOVES: Yes, "from Concepcion."

The witness is changing her answer.

A What I mean is he was taken from Concepcion to Boroboro; then from Boroboro to Bacolod.

MR. SCHAUER: That was not responsive to the question. Will you repeat the question again, please?

(The reporter read the question.)

A Yes. That was in Bacolod.

COLONEL STICKNEY: The Commission will take a recess and will reconvene in ten minutes.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Please remind the witness that she is still under oath.

(Witness reminded that she was still under oath.)

MR. AITKEN: The Translation Division has sent us another interpreter named Macario Belaong, who is to be sworn. (Interpreter Macario Belaong sworn.)

Q At the time that you last saw your husband alive which was at Bacolod, he was not at that time with Captain Nanjo or Captain Nanjo's soldiers, is that correct?

A ✓ He was with Captain Nanjo at the time.

Q But Captain Nanjo's command did not include Bacolod, did it?

A ✓ Bacolod is not included.

Q Did you see Captain Nanjo or any of Captain Nanjo's soldiers on July 5 when your husband was taken to the provincial jail?

A ✓ Yes, I saw them at Central Bacolod Station, because when you take the train for Boroboro you have to be in Bacolod Central Station.

Q ✓ Was that on July 5 that you saw Captain Nanjo and his men at the station in Bacolod?

A Yes, that was July 5.

Q How long was your husband kept in the provincial jail?

A ✓ He was kept in the provincial jail for nine days.

Q Was it nine days or five days?

A ✓ He was kept in the Kempei Tai for five days, and he was kept for nine days in the provincial jail and taken away.

Q When you last saw him alive, was that the first day

that he was at the provincial jail?

A Yes.

Q Did you return to Concepcion that same day, that is the day you last saw your husband?

A Yes, I went home to Concepcion.

Q Someone, then, told you that your husband was kept in the provincial jail for nine days, is that correct?

A Yes.

Q Did you ever see Captain Nanjo after the time that you saw him at the station in Bacolod?

A Do you mean at the time when my husband was taken?

Q To the provincial jail, yes.

A No more.

Q Do you know when Captain Nanjo and his men returned to Boroboro from Bacolod?

A No.

Q Then the last time you saw Captain Nanjo was the time when he was at the station in Bacolod?

A Yes, at Bacolod Central Station.

Q And at that time your husband was in the provincial jail, is that correct?

A Yes.

Q Were the Kempei Tai at the provincial jail?

A No.

Q Captain Nanjo did not have charge of the provincial jail at Bacolod, did he?

A I cannot tell you who was in charge of the provincial jail.

Q When you last saw Captain Nanjo at the station in

Bacolod did he seem to be on his way back to Boroboro?

A Yes, he was going back to Boroboro.

Q How long had you known Mariano prior to the 28th of June, 1944?

A Before the outbreak of the war I knew already Mariano.

Q How old was Mariano?

A I cannot tell how old he is.

Q Would you say that he was more than 30 years old?

A Not yet.

Q What did he do for a living?

A Tuba gatherer.

MR. SCHAUER: Tuba cutter?

INTERPRETER BELAONG: Tuba gatherer -- it is kind of a drink extracted from the plant.

Q Do you know whether or not he was a guerrilla?

A No.

Q Was he member of the USAFFE?

A No.

Q Where did he live?

A In Balogo but I do not know what hacienda he is living in at Balogo.

COLONEL STICKNEY: Will the reporter read that answer, please?

(Last answer read by reporter.)

Q Was he with you at the time your husband was arrested in Concepcion?

A Who, you mean Mariano?

Q Yes.

A No.

X Q ✓ Was November 7, 1945 the first time you saw him after your husband was arrested?

A Yes.

Q Did he come to your place in Concepcion?

A Who?

Q Mariano,

A He went to the place for marketing.

COLONEL STICKNEY: Will the reporter read that last answer, please?

(Last answer read by reporter.)

Q ✓ Was it at that time that he told you that your husband had been killed?

A Yes.

Q Did Mariano say whether or not he saw your husband at the time of the killing?

A ✓ He told me that my husband was killed.

Q Did he say whether or not he saw your husband when your husband was being killed?

A Yes.

Q Did he say how far he was from your husband at the time he saw him being killed?

A Yes, he told me he saw.

Q How far?

A He told me that he was up in the coconut tree while they were killing my husband at a distance where I am sitting now to that barbed wire fence.

MR. AITKEN: Yesterday it was forty paces and we estimated it about thirty-five yards.

MR. SCHAUER: That is correct, 100 feet.

MR. AITKEN: Yes, 100 feet.

MR. SCHAUER: May the record show that the counsel agreed that the distance as indicated by the witness is approximately 100 feet.

COLONEL STICKNEY: The record will so show.

Q Will you tell us now just what Mariano told you about how your husband was killed.

A He told me that while they were bayoneting my husband, Mariano went away to hide.

Q Did he tell you where he went?

A He was at the top of the coconut tree hiding.

Q You say then that he hid, you mean that he hid in the top of the coconut tree?

A Yes.

Q Did he say whether or not he saw anything while he was hiding?

A Yes, that was when Bartolome was being bayoneted by the Japanese soldiers and Captain Nanjo was there.

Q Did he actually see any Japanese bayonet your husband?

A Yes.

Q Did he say where the Japanese soldiers went after your husband was bayoneted?

A Yes.

Q Where did the soldiers go?

A They went back to their garrison.

Q Do you remember when you testified yesterday that you told us that Mariano had told you nothing about how your husband was killed, but had only pointed out the place where his body was located?

A Meriano told me that my husband was killed by the
Japanese at the time when I exhumed the remains of my
husband.

Q Didn't you testify yesterday that Mariano told you that he did not see the killing of your husband?

A Do you mean I testified yesterday?

Q Yes.

A I did not say that yesterday. I said only that Mariano told me at the time when I exhumed the remains of my husband.

Q Did Mariano tell you on what day your husband was killed?

A No.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Questions by the prosecution?

REDIRECT EXAMINATION

BY MR. AITKEN:

Q At the time you understood your husband was killed, did he own a dog?

A Yes.

Q Did Mariano ever tell you anything about the dog?

A He did not tell me anything about the dog.

MR. AITKEN: No further questions.

COLONEL STICKNEY: Questions by the Commission?

(There were none.)

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Witness excused.

(Witness excused)

ELENA S. BETER

a witness for the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Please state your name.

A Elena S. Beter.

Q You speak English?

A Yes.

Q And you prefer to give your testimony in English?

A Yes.

COLONEL STICKNEY: I would like to ask for my own information, is this Romana Ballesteras?

MR. AITKEN: No. This is Elena S. Beter. I did have it, but I may not have put it on some of those copies. It was added later on.

Q Your age?

A Thirty-two.

Q Your occupation?

A Government employee.

Q Where?

A City Hall, Treasurer's Department, Bacolod City.

Q And your residence is in Bacolod?

A Bacolod City.

Q Where did you reside in June and July of 1944?

A I lived at the Barrio Granada, which is ten kilometers from Bacolod City.

Q And how close to the Barrio of Boroboro?

A It is two kilometers from the garrison of Boroboro to

the place where I am residing.

COLONEL STICKNEY: How many?

A Two kilometers.

Q Now, did you know Bartolome Toriano?

A Yes.

Q Were you present at the time of his arrest by the Japanese?

A No, I was at home.

Q Did you know of his arrest?

A Yes.

Q Do you know when it was?

A It was in June 28, 1944.

Q And how did you become aware of his arrest?

A When he was arrested at the Barrio Concepcion, it was market day. This man Bartolome Toriano was selling the meat at the Barrio Concepcion. It came to pass that the children of Bartolome Toriano came to my house, which is three kilometers from Concepcion, telling me of the arrest of their father, Bartolome Toriano. And the children pleaded for me to come with them to the mother, when the mother cannot speak English to the captain of the garrison Boroboro, which is Captain Nanjo.

Q Did you know Captain Nanjo?

A Yes, I know him. He is my friend.

MR. WARD: He is what?

A Friend.

MR. WARD: "Friend." Let the record show.

Q What did you do then?

A Right away I go with the children to the garrison.

Q At Boroboro?

A Yes, at Boroboro.

Q What did you do?

A When I came there the mother and myself go together, and the mother, which is Purificacion Salon, called for Captain Nanjo and Captain Nanjo went to the gate where we two were standing by the gate -- that is, the wife of the deceased, Bartolome Toriano. Then while we were standing there came Captain Nanjo of the garrison and the wife of the deceased tried to talk, and I am the one interpreting to Captain Nanjo. I tried my best and told him this is the pleading of the wife: "Captain Nanjo, my husband is a civilian. I plead for the sake of my seven children that you won't kill him," and Captain Nanjo answered, "I can't assure you, because I was told to arrest him and I have to bring him to Bacolod."

Q Did he take him to Bacolod?

A Not that morning, right away. We came home with the wife, and I went home and the wife went home because we were told not to stay longer there at the garrison. So we went home, I went home and the wife went home. I didn't know until the next day it was market day at the station. This station is about, I think, less than half a kilometer from the garrison. If we will walk from the garrison up to the station it will not, I think, finish one cigarette. And then the next day it was Sunday. I could not remember exactly the day, but it was market day. You know during those times in the stations there were two market days, Thursday and Sunday. I could not remember the day when Bartolome Toriano was

called to the station, and during that day I have to go marketing. I was again asked by the wife to talk and plead to Captain Nanjo, and then I approached Captain Nanjo, saying, "Captain Nanjo, this woman said and pleads for your kindness, just for the sake of his seven children, if you will not kill him." Captain Nanjo just kept quiet and the train goes on and I myself go home.

Q Did he take Bartolome Toriano on the train when he left?

A I could see him personally take Bartolome Toriano.

X Bartolome Toriano was sitting on the train with one Japanese with fixed bayonet and Captain Nanjo sitting on the second seat.

Q Had you known Bartolome Toriano for any length of time?

A Yes, I knew him.

Q Did you ever see him again after that?

A Since the time he was brought to Bacolod, I have no chance of seeing him.

Q How did you know he was brought back to Bacolod?

A Well, when the train goes on he was on the train.

X He went back to Bacolod. That was the information I got, because I asked Captain Nanjo.

Q You saw Captain Nanjo again after that?

A Yes.

Q Did you talk to him about Bartolome Toriano?

A Yes.

X Q What did he tell you?

A During the patrol, because they have to go on patrol from hacienda to hacienda from the garrison with his soldiers, they have to pass my house. Captain Nanjo and his soldiers passed that home. They have to walk quite a far distance

to reach the place wherein is that place of mine, my house.
Captain Nanjo and the soldiers would be resting there.

While they were resting there it came to pass that I was
at home and I approached Captain Nanjo and before I met
Captain Nanjo the soldiers told me Bartolome Toriano was
gone and I asked Captain Nanjo and he said, "Yes."

Q Did he tell you what happened to Bartolome Toriano?

A Yes, he is killed.

Q Did he say where he was killed?

A I didn't ask any more questions. When after telling
me that he is gone, it is not my duty to ask so many ques-
tions. I just keep quiet.

Q But he told you he was killed?

A Yes, plus the soldiers.

Q Now, Captain Nanjo was in command of that district,
was he not?

A Yes, Captain Nanjo is in command of Boroboro garrison.

Q And the soldiers you saw with him at the time he ar-
rested Bartolome Toriano, were they his soldiers?

A Yes.

Q Soldiers from the garrison of Boroboro?

A Soldiers from the garrison of Boroboro. There were no
other garrisons in the place, except that one.

MR. AITKEN: That is all.

CROSS-EXAMINATION

BY MR. WARD:

Q You are a school teacher, are you not?

A No, at present I am not.

Q Were you a school teacher at that time?

A I beg your pardon? At that time?

Q During July, 1944?

A I am not.

Q At one time you were arrested by the Kerpei Tai yourself, is that true?

A The Kerpei Tai? Yes, it is true.

Q About January, 1945?

A Yes.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: (To witness) Please remember that you are still under oath.

Q You were apprehended by the Kempei Tai about January 1945, is that correct?

A Yes.

Q And at that time did you have occasion to see your husband and children?

MR. AITKEN: Objected to as being immaterial.

MR. WARD: I think we will bring out the materiality as to the reason for seeing her husband and children and the relation of the defendant and the witness. I will bring out a relationship there and I believe any such relationship we should be able to bring out.

MR. AITKEN: I still don't see any materiality.

COLONEL STICKNEY: Can't you make the materiality known before asking the question?

MR. WARD: I am going to show that this witness was arrested by the Kempei Tai.

COLONEL STICKNEY: You have shown that.

MR. WARD: And that her husband and children went to see Lieutenant Nanjo and that there was a reasonably close relationship there, and where Lieutenant Nanjo was at that time. I still think it is pertinent as to the Charge; it may or may not be pertinent as to the Specification.

MR. AITKEN: I don't see any relevancy whatever under the explanation of counsel.

MR. WARD: We are allowing a wide latitude in the Charges, rather in the Charge, and the various Specifications take in over a considerable period of time from January 1944 until April 1945, is that correct?

Now, he is under one Charge at that time, but for the convenience of the Commission I want to show the relationship between the witness and the defendant, and I also wish to place the defendant in the hospital -- that will be very material to the Charge which consists of seven different Specifications. I will bring out facts that are pertinent.

MR. AITKEN: Are you going to show there was a relationship?

MR. WARD: Yes, I intend to show that there was a relationship and by doing so it probably will be for the benefit of the prosecution. I see no reason for the objection.

MR. AITKEN: The prosecution is perfectly able to take care of its own case, and I still can't see any relevancy or materiality in the ~~line~~ indicated.

MR. WARD: If the Commission will look at the Specifications, it will find that they cover a period of time. They are under one Charge; therefore, if I can bring out through cross-examination of any witnesses where the defendant was as to any specific time, we need not relate the testimony of the witnesses to each specific count and go down and recall each and every thing, each count at that time. We can go through all Specifications we can cover because they are under one Charge. There are not several Charges here. He is charged with violation of the laws of war. The Specifications, as counsel has so aptly brought out in answer to my motion to amend in the Bill of Particulars, is merely a Bill of Particulars. The Charge is still the same. There is one Charge for which the defendant is standing at this time.

COLONEL STICKNEY: There is one Charge and seven Specifications.

MR. WARD: That is right, but the Specifications are merely a Bill of Particulars. Therefore, if I can meet any of these Specifications, I may do so by the examination of any witnesses.

MR. AITKEN: What are you going to prove by your question?

MR. WARD: I am going to prove where the defendant was at certain times, and I can do so.

COLONEL STICKNEY: I would like to hear the question.

THE REPORTER: "And at that time did you have occasion to see your husband and children?"

COLONEL STICKNEY: Now, the previous answer stating what the time was.

THE REPORTER: "Q You were apprehended by the Kempei Tai about January 1945, is that correct?"

"A Yes."

COLONEL STICKNEY: Mr. Aitken, your objection is that that is immaterial, is that right?

MR. AITKEN: Yes, sir.

MR. WARD: It is a preliminary question.

COLONEL STICKNEY: The objection of the prosecution is sustained.

Q Did your husband or children ever tell you they saw Captain Nanjo on or about January 1945?

A No.

Q Did your husband and children ever say they saw Captain Nanjo, or Lieutenant Nanjo, while you were apprehended by the Kempei Tai?

A No -- can I specify the point, why I say "No"?

Q Yes.

A Because I say it "No," because I am in prison and then I have no chance of meeting my husband or children. Nobody is allowed to see me while I was in the hands of the Kempei Tai, but not directly, that I was brought to the hands of the Kempei Tai. May I explain?

Q Certainly, but do it slowly.

A While I was in prison and arrested, I was called directly to the garrison and I was put into a hole, and they said, "You are going to be killed because you are accused as a spy and food supplier and intelligence." I then, while I was put into a hole, I cried and say, "Give me a chance to reason out before putting me to death, because I would like to say that if there is any proven statement about my accusation, I am ready to be killed. I don't care for my life." But it was not proven, because when I asked for a written statement for my accusations as a food supplier, spy, intelligence of the Army, they had nothing to let me know and read before their persons. And, so while the Japanese in the garrison said, "Well, you are going to be killed," I answered: "You have no right to kill a woman without proving her right that she is guilty as accused, and then charge." And there were 120 Japanese from Bacolod City there. Let me continue this story. Then, just at that time, while I was in the hole blindfolded, waiting for the 120 Japanese, Japanese were passing the front of the garrison, and at the back of the garrison I was still in the hole where five soldiers with fixed bayonets watched me there, and then after a few minutes I was called to go up. Because

A No -- can I specify the point, why I say "No"?

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I could understand the command and the Japanese language, I had to go up from the hole. Then, when I had to step the ladder out of that hole, they blindfolded me -- a handkerchief was put onto my eyes there, and I could see the officials facing me and the rest of the Japanese soldiers were around the garrison.

Then, the official with a long sword spoke in the Japanese language, saying, "You come forward." Then I come forward -- and I salute them all, and then I asked them, I was just surprised I talked to the officials, because I asked them, "May I talk," and the official said, "Yes" -- I was just surprised -- "Why am I called and put to death without knowing my fault. I regret the killing me. I know that I am to be killed. This time I know that the people that had been caught by the Japanese had no chance to go home, and I may be one to follow, but I only pleaded being one Filipina woman caught under your hands for her life or death. Let me express whether I am guilty or not -- and you know it." The officials did let me sit and eat with them, and after about five minutes I was brought to the field where the soldiers were to retreat there, and we rested for about ten minutes. I had my watch with me when I was with them, and I had given myself to God that I am to be put to death --but thanks because I pleaded to them before killing me, they gave me the chance to tell about my life -- whether you will prove me or not, and then about five or ten minutes of rest they let me walk quite a far distance until we reached Concepcion, with my hands -- my right hand -- tied. Then, when we reached Concepcion I found out that there were so many soldiers, several houses were filled with Japanese officials

here and there, you know. I was given to Captain Etshinoshi.

COLONEL STICKNEY: This is getting rather lengthy --
I wonder if you desire all this.

MR. WARD: This was not responsive to my question.

THE WITNESS: If you will allow me --

MR. WARD: This was not what I was intending.

COLONEL STICKNEY: If it was not what you were
intending, we can break it up.

MR. WARD: This is not what I was intending,
although it was very interesting. My question was a little
different. I asked if her husband or children had ever
told her they had seen Captain Nanjo in the hospital.

COLONEL STICKNEY: And as a result we have had a
long story during which it would seem that up to this time
they had not. However, do we want to continue on and on?

MR. WARD: I would like the answer to my question.

COLONEL STICKNEY: The answer was, "No."

MR. WARD: Not at that time, she said because
she was in the Kenpei Tai.

COLONEL STICKNEY: Then is it your desire that
this is enough for the present?

MR. WARD: Right.

COLONEL STICKNEY: And you want to continue on
with your next question.

Q Did your husband or children ever tell you they saw
Captain Nanjo in the hospital?

A No.

Q Are your husband and children still alive?

A Yes.

Q Where are your husband and children now?

A In Bacolod City, but I protest the case -- can I speak?

MR. AITKEN: No, never mind.

MR. WARD: No, that would not be answering the question.

A The question you are asking me is entirely out of point, as it has nothing to do with why I am called here.

Q Where do you live?

A Well, I live in Bacolod City.

Q Oh, that is right. Where do you live in Bacolod City?

A Yes.

Q Where do you live?

A Bacolod City, just in the city.

Q Do you have an address?

A How?

Q Is it a barrio, or is there a street number?

A I give my address that way, and I can be located there.

Q What street do you live on?

A Lacson Street.

Q How do you spell that?

A L-a-c-s-o-n Street.

Q Is that in a particular barrio?

A No, that is just within the city limits.

Q Are your answers depending upon the reason you were brought here -- are you answering some questions just because you were brought here by the prosecution and not by the defense?

A Well, when I came in I don't know what I am here for, or when I was brought here from Bacolod. I don't know anything which I am going to testify until this morning that I had to sit on this chair, and I have to testify the truth.

Q You stated a minute ago when I asked about your husband and children that that was not the reason you were brought here to testify.

MR. AITKEN: She did not say that.

A Well --

MR. AITKEN: Just a moment.

MR. WARD: At this time I don't want the counsel --

COLONEL STICKNEY: Mr. Aitken, you are making an objection?

MR. AITKEN: Yes, I am. I am objecting to the question because it is assuming the existence of facts that are not in the evidence -- that is, testimony which does not exist.

MR. WARD: The Commission heard the witness' answer a few minutes ago, and I think that was a correct statement of the testimony when I asked about her husband -- the Commission heard the answer.

MR. AITKEN: Read it then.

COLONEL STICKNEY: Are we speaking of the last question?

MR. WARD: That is correct.

COLONEL STICKNEY: And you have made an objection?

MR. AITKEN: Yes.

COLONEL STICKNEY: Do you withdraw the question?

MR. WARD: No, I do not.

COLONEL STICKNEY: Do you have an argument as to why the objection should not be sustained?

MR. WARD: The counsel for the prosecution said I misquoted the testimony, that is the objection. If the reporter wishes to go back and find the testimony as per the

Q You stated a minute ago when I asked about your husband and children that that was not the reason you were brought here to testify.

MR. AITKEN: She did not say that.

A Well --

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MR. WARD: The counsel for the prosecution said I misquoted the testimony, that is the objection. If the reporter wishes to go back and find the testimony as per the

prosecution's request, she may do so. I have not misquoted the testimony.

COLONEL STICKNEY: I would like to hear the question to which the objection has been raised.

THE REPORTER: "You stated a minute ago when I asked about your husband and children that that was not the reason you were brought here to testify."

COLONEL STICKNEY: You have made your objection. Had you finished?

MR. AITKEN: I was going to make an observation on the testimony, but I will hold my peace.

MR. WARD: The testimony can speak for itself.

MR. AITKEN: Unless I am not out of order in saying what I want to say.

COLONEL STICKNEY: I want to hear your objection, and I want to hear whether the defense agrees with your objection, and if they do not, I want to hear what the testimony is.

MR. AITKEN: I have objected because the testimony has been misquoted, because, as I understand it, she did not say anything that her husband and children had anything to do with her being brought here to testify.

MR. WARD: The record may speak for itself.

COLONEL STICKNEY: Can the reporter find that in the record?

THE REPORTER: "The question you are asking is entirely out of point, as it has nothing to do with why I am called here."

COLONEL STICKNEY: The objection is not sustained.

Q What do you mean by that?

A Because I asked you that, because when I came and sat down in this chair I was asked a different question and that I answered, and your question has no relation with the questions that had been asked to me the first time.

Q I see. What is the name of your husband -- your husband's name, what is it?

A Well, I object to the asking of the question.

MR. AITKEN: Yes, and I object also as being irrelevant and immaterial. I don't see how he gets into this case.

COLONEL STICKNEY: Can the defense show the relevancy of the question before we get the question?

MR. WARD: I believe that it was -- at this time her husband and children are obviously witnesses, or at least witnesses to some period of time during which time the prisoner was in the hospital, and that is relevant to the Charge, and I wish to know their exact names.

COLONEL STICKNEY: The objection is sustained.

Q Do you know whether the defendant, Lieutenant Nanjo, was in the hospital?

A I don't know.

Q Did your husband or children ever tell you that he was?

A Well, I don't know because I was in prison.

Q That is not responsive. Have they ever told you that he was in the hospital?

A No.

MR. WARD: No further questions.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No redirect.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Do you know Captain Nanjo -- in the middle of 1944, did you know Captain Nanjo well?

A Yes.

Q If he were here in the courtroom, could you point him out?

A Yes.

Q Will you look around and see if you see him?

A From the right end, the second one.

MR. WARD: We are willing to so stipulate since they have been smiling at each other.

MR. AITKEN: I think from the record's standpoint it is better if she goes over and does --

COLONEL STICKNEY: I am asking if you will look around the Court and see if you can see Captain Nanjo, and, if you can, go over and point him out.

(Witness goes over to table and correctly identifies the accused.)

COLONEL STICKNEY: The record will show that the witness pointed out the accused. Are there any questions by any other members of the Commission?

BY MAJOR FRITZ:

Q After the soldier and Captain Nanjo had returned to your barrio, exactly what did the soldier tell you about Bartolome -- as closely as you can remember?

A The soldier told me that Bartolome Toriano "is gone." That is exactly the words.

Q Did you ask any explanation whatever?

A No.

Q Did you ask whether he was killed?

A No.

Q Did the soldier mention how he was killed?

A No, because I did not ask him any questions.

Q Approximately how long, how many days passed between the time that you saw Captain Nanjo and Bartolome leave on the train and the next time you saw Captain Nanjo?

A Well, the last time when I saw Bartolome Toriano ride on the train to Bacolod, about one week's time elapsed, lapse of time was about one week when they go on patrol to the place where I was living. I could not just estimate because I am not the one concerned of the deceased Bartolome Toriano.

Q Do you know whether that day on which you next saw Captain Nanjo was the first day that he had returned, or had you heard from anyone that he had been back previously?

A No, before the time when Captain Nanjo and the rest of the soldiers went up home to tell me that Bartolome Toriano died, had been killed already, it was quite -- not a very long time. I could not remember because, you know, during those days we lived by fears and just when they were on patrol that was the time I could not only estimate, exactly estimate. Perhaps if I had been the owner of the deceased I can set up, or I can count the days exactly just coincidentally that they came and informed me that.

MAJOR FRITZ: No further questions.

BY MAJOR HERR:

Q Why did they inform you of his death?

A They informed me, because every time they are on patrol they have to rest at home and ask for some water, and these Japanese, without asking them questions first, they are the ones, the man whom I pleaded for Captain Nanjo that time -- no more.

COLONEL STICKNEY: Any other questions by the defense?

MR. WARD: Yes, one more by the defense.

FURTHER CROSS-EXAMINATION

BY MR. WARD:

Q Was Captain Nanjo stationed at Bacolod or Boroboro?

A When the thing happened of arresting Bartolome Toriano he was the commander of the garrison.

Q Was he stationed at Bacolod later or before?

A I don't know.

Q Do you know if he was ever stationed at Bacolod?

A That is the thing I cannot tell you. So far as I can remember, the thing happened when he was only in Granada, stationed there as the commander of the garrison.

Q How long had he been stationed at this garrison in Boroboro?

A Well, that is a thing I cannot tell you, because I am not very well interested in the length of time of the Japanese. Only I could tell you that they are still there. I mean I could see them going on patrol from hacienda to hacienda, but I am not very much interested in their stay in the garrison. There were many haciendas inside the garrison Boroboro where Captain Nanjo was the commander.

Q Do you know how many men Captain Nanjo had under him?

A I don't know exactly how many he has in the garrison, but when they go on patrol there are sometimes 24, sometimes 12, because there are -- I mean to say, 16 -- because when they happen to be resting in the place in my house downstairs I could just count them.

Q But it was usually between 16 and 24 on a patrol, is that correct?

A Yes.

Q At that time do you know if there were any more left in the garrison at Boroboro?

A I don't know, because I don't go to garrison when they are on patrol. I saw them when they are on patrol that day.

Q Did your duties take you from your residence in Bacolod to Concepcion during that time?

A I don't know from what place they have been starting when they have to stop there.

Q I don't mean that. Did your duties take you to Concepcion in July of 1944? Did your duties take you to

~~Concepcion~~ when Toriano was apprehended by the Japanese?

A When Toriano was apprehended by the Japanese I was taken by the children of Purificacion Salon to be brought to the garrison.

Q You were not present in Concepcion at that time?

A No, I was at home. Only the children of Purificacion Salon call me there at my house to go with their mother to help her interpret to Captain Nanjo what she wanted to say to him.

Q When you were apprehended in January 1945, was Captain Nanjo still at Boroboro?

A I beg your pardon. You mean to say while I was in prison?

Q No, in January just before you were imprisoned, was Captain Nanjo in Bacolod or Boroboro? Was he still the garrison commander in Boroboro or was he in Bacolod?

X A I could not see him any more on patrol at that time.

Q Do you remember when was the last time you saw him on patrol?

A Well, I could not remember exactly, because I don't think of the day, what day it is when Captain Nanjo is on patrol. It is the least important thing in my life to know that.

Q Was Captain Nanjo still garrison commander of Boroboro when you spoke to him in your home about Toriano?

A Yes.

Q And when did you see him again the next time?

A When he goes with Toriano to Bacolod, I saw him on the train.

Q ✓ Did you see him on patrol afterwards?

A Yes. That was the time when he told me and the rest of the soldiers told me. I don't ask them any questions. They told me only, because during those times we civilians we don't want to ask first questions to any Japanese, except when they are the ones who told us first.

Q Did you see Captain Nanjo after that time, after the time you were told that Toriano was dead? Did you see Captain Nanjo on patrol after that time?

A Still?

Q \ Yes.

A Yes.

Q You saw him afterwards?

A Yes.

Q Do you know how many times you saw him after the time he told you Toriano was dead?

A I could not remember, because since then they told me Toriano was dead, they have to be on patrol very far from my home and they do not stop at my house any more, after telling that.

Q In other words, Captain Nanjo's patrol was changed to a farther district?

A ✓ Yes, still he was the commander of the garrison, but has to go in a different direction, not passing my home now.

Q How do you know he was still garrison commander?

A It is because the people telling me they are there.

Q ✓ Then, you did not see Captain Nanjo many times after he told you Toriano was dead, is that right?

A ✓ No.

MR. WARD: No further questions.

MR. AITKEN: No further questions.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Do you know where Hacienda Carmen is?

A Yes.

Q Where is it with respect to Bacolod?

A Hacienda Carmen from Bacolod -- let me tell you this: from Bacolod up to Granada is 10 kilometers, then from Granada to Hacienda Carmen is 2 kilometers, almost 2 kilometers.

Q Is that between Granada and Concepcion?

A No, Concepcion is quite far.

Q Yes. But is it 2 kilometers toward Concepcion from Granada or is it 2 kilometers toward Murcia from Granada?

A Yes, because there are many ways in which you could go to Concepcion. If you wanted to pass Hacienda Carmen to Concepcion you will pass it, but if you do not want, there is another way. There are many ways to go to Concepcion, because from Granada it is straight. You have to walk straight up to Hacienda Carmen.

Q Did I understand you to say "straight east"?

A Just the second one, the second hacienda.

Q Did I understand you to say "straight east"? I was not sure.

A Straight, yes.

Q Straight east?

A East? No.

Q Is Hacienda Carmen on the way from Granada to Boroboro?

A Yes.

Q Is Hacienda Carmen on the main Granada-Concepcion Road?

A No.

COLONEL STICKNEY: Any further questions?
Anything further from the defense?

MR. WARD: No.

COLONEL STICKNEY: Prosecution?

MR. AITKEN: No.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

MR. AITKEN: For the purpose of the record, I would like to say at this time that the witness, Lauro Mariano, is not available but we expect him to be before the end of the trial, and in putting him on later when he becomes available, it will be a little out of order, so we are through with this specification for the time being. We are going on to Specification 3.

ROMANA BALLESTEROS

a witness for the prosecution, being first duly sworn,
was examined and testified as follows through

Interpreters Genoves and Belaong:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Romana Balesteros.

Q Your age?

A Sixty-five years.

Q Your residence?

A Balogo, jurisdiction of Granada, Bacolod.

Q What was your husband's name?

A Faustino Alindog.

Q And what was your son's name?

A Ricarido Alindog.

Q Did they reside in Balogo with you?

A Yes, we were living there. We have a small piece
off land in that place.

Q Do you remember an occasion on or about December 21,
1944, when your house was visited by Japanese?

A Yes.

Q How many Japanese visited you at that time?

A I could not count them, because I was afraid, but
I know there were many.

Q Do you know where they came from?

A They came from Boroboro, from that garrison, because
our place is at the south direction of the garrison.

Q Do you know who was in command of that body or group?

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A I could not count them, because I was afraid, but
I know there were many.

Q Do you know where they came from?

A They came from Boroboro, from that garrison, because
our place is at the south direction of the garrison.

Q Do you know who was in command of that body or group?

A Of the many Japanese soldiers who arrived there, their commander was Captain Nanjo.

Q What happened to your husband and son at that time, if anything? State what happened.

A When they arrived there it was about 5 o'clock in the morning and they immediately asked for soldiers in our vicinity and they started punishing my husband and my son. I pleaded with them that if possible they detain their punishment against my husband and my son. I and my husband pleaded but they did not mind us and they kicked my son, beat him at the back and front. My husband who was kneeling as he was pleading for our son was also kicked.

COLONEL STICKNEY: The Commission will take a recess and will reconvene at 1300 hours.

(The Commission adjourned at 1115 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, prosecution, assigned defense counsel, defendant, and his personal interpreter, official interpreters, and the reporters are all present in Court.

Will you remind the witness on the stand that she is still under oath?

(Witness reminded that she was still under oath.)

ROMANA BALIESTEROS

a witness for the prosecution, having been previously duly sworn, testified further as follows:

DIRECT EXAMINATION (Cont'd)

MR. AITKEN: At the conclusion of the previous session, the witness was relating the incidents of the arrest of her husband and son.

BY MR. AITKEN:

Q You stated that the Japanese soldiers under Captain Nanjo came to your place and arrested your son and your husband. Did they speak to you at that time?

A They spoke to us, asking where there were soldiers. We answered them that we did not know of any soldiers in the vicinity. But the Japanese soldiers insisted that we knew something of the whereabouts of the soldiers.

Q Did they lay their hands upon you in any way?

A At the time they arrested my son and my husband they tied their hands. Then, because of my pity for my husband and my son I approached them trying to hug them, because I was afraid something may happen to them. At that time, the Japanese soldiers gave me a blow on the chest. And ~~for that I had to stay in the hospital.~~

INTERPRETER BELAONG: (To reporter) Please strike that "And for that I had to stay in the hospital".

Q What effect did that blow have on you?

COLONEL STICKNEY: I would like to ask the interpreter -- you started to say something about a hospital, what was that about the hospital?

INTERPRETER BELAONG: The witness was trying to tell at the same time that when she arrived here she had to stay here in the hospital because she was spitting blood.

MR. SCHAUER: That has nothing to do with this case, then, does it?

COLONEL STICKNEY: Does that connect up with this blow -- does she connect that up with this blow that she speaks of?

INTERPRETER BELAONG: Yes, Sir, (adding) "Since that time by the effect of that blow I got sick and I have to spit blood".

COLONEL STICKNEY: It is not clear to me why the question was asked. There is nothing in the Charge and Specifications about any blow to this witness, I believe.

MR. AITKEN: Well, it was just a part of the act and facts connected with the arrest at the time. I just wanted the details at the time -- it is not a Charge.

COLONEL STICKNEY: No.

MR. SCHAUER: I move that the answer at this time be stricken, if the Commission please. It has nothing to do with the persons named in the Specification and is also not responsive to the question asked.

COLONEL STICKNEY: Any objection to striking that out?

MR. AITKEN: I don't think it necessary to strike it out because in describing the arrest and the incident that took place, I think all the facts that form the *res gestae* are admissible in evidence.

MR. SCHAUER: The defendant is not charged with mistreating this witness. There is nothing in the Specification that alleges any mistreatment of the witness.

MR. AITKEN: But it is of her husband and son, and everything that happened at that time is admissible. We can't ask a witness to pick out a fact where that has no reference to the mistreatment of the son, and cast it aside, and pick out something that does touch that. But all the facts of the entire incident, I think, are proper as long as they happened at that time.

MR. WARD: Yes, but counsel has gone further and asked her about her subsequent condition and the fact about her being confined to the hospital -- and it has no relation to Specification 3.

COLONEL STICKNEY: I can't see how that question or the answer will help us get at the facts we are after. And the objection is sustained and the portion about the blow to herself will be stricken from the record.

Q Now, was any mistreatment accorded to your husband and son at that time?

A When they arrested my son and my husband they tied their hands, and then my husband and son were brought to a distance of about one and one-half kilometers from our place. They killed my husband and my son on the way.

Q Prior to that time, and in accordance with what you stated this morning that you mentioned your husband kneeling in supplication before somebody. Before whom did he kneel?

MR. WARD: Objected --

COLONEL STICKNEY: Is there an objection?

MR. WARD: Objected to that there is no testimony about the husband kneeling.

MR. AITKEN: Yes, there was.

MR. WARD: There was not.

MR. AITKEN: I will appeal to the record, I don't want to say it was there if it was not there, but I am quite certain it was there.

MR. WARD: The husband was never kneeling, nor was the son, some other person might have been kneeling, but not the son.

MR. AITKEN: No, she said her husband.

COLONEL STICKNEY: Does the reporter have the notes here?

(The reporter who took this testimony was not in court.)

MR. AITKEN: Because the record is not here, I will withdraw that question and ask her over again.

COLONEL STICKNEY: All right.

Q During the period of time when your husband and son were being questioned and arrested, did or did not your husband kneel before someone?

A Nobody.

Q Who was present at the time asking questions of your son and husband?

A There were only three of us at home. My husband, my son and I. Aside from that there were other prisoners tied who were brought also in the house.

Q Did you know a man named Leopoldo Agravante?

MR. WARD: May that last question and answer be stricken. It is not responsive to the question asked by the prosecution. The prosecution asked her who questioned her husband -- she answered by who was present.

MR. AITKEN: You may strike it, that is all right.

COLONEL STICKNEY: The question and answer will be stricken.

MR. AITKEN: Will the reporter please read the question?

(Last question read by reporter.)

Q What Japanese were present asking?

A I did not know of any Japanese soldiers personally, except Captain Nanjo.

Q And was he there?

A He was there.

Q What part did he take in the arrest?

A He was heading the Japanese soldiers in punishing my husband and son.

Q Who was giving the order there?

A It was Captain Nanjo.

Q Now was anyone else arrested there at that time?

A There were many, but I did not know them.

Q Did you ever know of one called Leopoldo Agravante?

A That Leopoldo Agravante only passed by, but he was also at that time arrested.

Q Did you see him arrested?

A Yes, sir, because his house is quite near our house and I could see them.

Q Now, did Agravante come back to where you were later on?

A They were first brought by the Japanese soldiers but later on, about three o'clock in the afternoon, he appeared again telling us that he was able to escape, and he further told us that he would go away from our place because he was afraid that he might be caught again.

Q Did he tell you what happened to your husband and son?

A He told me. He was also informing us that my husband and son were killed and this Leopoldo Agravante further said that if he was not able to escape he would also be killed.

Q Did you see where your husband and son were killed?

A From our place going to Concepcion I was told that my husband and son were killed on the way. Because on the way to Concepcion you will cross a river and it was in that place -- meaning the river -- where my husband was killed and my son.

Q Do you recollect at this time the name of that river?

A The name of that river is Matak-ang.

MR. AITKEN: Spelled M-A-T-A-B--A-N-G?

INTERPRETER BELAONG: That is right.

Q Did he tell you at the time when your husband had been killed by the river, your husband and son?

A In the morning right away after they were taken from our house.

Q Now, after he told you of the location of the spot where your husband and son were killed, did you go there to look for the bodies?

A Immediately after that day when Leopoldo told me that my husband and son were killed, I did not go to locate them, because I was afraid. All I did was to cry

at home. However, on the fourth day I went to the river and there I found my husband and son in a state of decay. They were about four or three yards from the river bank.

Q Did you examine the bodies?

A Yes, sir, I cried very much at seeing my husband and son.

Q In what condition did you find the bodies with reference to any wounds or signs of violence?

A I saw my son with his neck cut off and there were also wounds upon both sides of the chest, also the stomach at about near the hip.

Q And your husband, what did you find?

A My husband had his shoulder almost cut off. Aside from that there were wounds in several parts of the body. I think that those wounds were caused by a bayonet.

Q Who went with you at the time when you made this discovery?

A I was accompanied by my grandchild, about eight years old.

Q Do you remember her name?

A ~~Narita~~ was the name of my grandchild who accompanied me.

Q Do you remember the date?

A On the fourth day when they were arrested -- first day it was already Sunday--when I went out to look for the bodies of my husband and son.

Q Do you remember it with reference to Christmas of 1944?

A I remember that when the period of time from Thursday to Sunday, the following Monday it was Christmas,

Q Now, what did you do at the time and did you bury these bodies?

A I embraced my son and my husband. I could not do anything. I was helpless then.

Q Did you leave them there?

A I had to leave them in the state of decomposition.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. SCHAUER:

Q Had you ever seen Captain Nanjo before the day that he came to your home and arrested your son and husband?

A I saw him when he appeared at my house to apprehend my son and my husband. He was then wearing a revolver.

Q Had you ever seen him before that time?

A I saw him, because at times he used to pass by our house.

Q How many times would you say you saw him before the day he came to your house?

A He went to our place twice.

Q You had seen him then twice before the day that he came to your house to arrest your son and husband, is that correct?

A Yes, sir.

Q Had you seen any more than twice?

A Twice. The second time when he came to our house to arrest my husband and son.

Q Had you ever seen him after the day that your son and your husband were arrested?

A I never saw him any more, because we went away from our

place to escape.

Q How did you know that this person that was in charge of the troops that came to your house that day was Captain Nanjo?

A I knew him as the head of the troops, because at that time my eyes were still clear. At this time I should say my eyes is quite blurred now.

COLONEL STICKNEY: Was there something in her testimony about Boroboro just now? Did she use that word, do you know, Interpreter?

INTERPRETER BELAONG: I do not remember.

MR. AITKEN: I thought I heard it.

COLONEL STICKNEY: I thought I heard it.

INTERPRETER BELAONG: She used the word "duro."
That is in Visayan "very much."

Q Do you see Captain Nanjo in the courtroom now?

A I think I cannot see now, because my eyes at this time is blurred. After the capture of my son and my husband I had suffered some mental disorder for about two months.

Q How long were the soldiers at your house before they took your son and your husband away?

A When they arrived there it was about five o'clock, and about six o'clock later on they went down, taking along my husband and son.

Q Who talked to your husband and son when they were arrested?

A It was Captain Nanjo and also his soldiers. They were asking us questions from one to another, insisting that we should point out who were the soldiers in the vicinity, but

we could not point out anybody.

Q Did the soldiers and Captain Nanjo speak in Japanese?

A I do not know what language they were talking, but at that time there was one who was supposed to be an interpreter and he told us that these Japanese soldiers will arrest you if you don't point out who were the soldiers in the vicinity.

Q Was the interpreter one of the Japanese soldiers?

A I don't know, because I was not able to think well at that time, because of my fear.

Q Did you see Captain Nanjo at that time?

A He was there. He was ordering the soldiers to punish those people in the house.

Q Was it dark at that time?

A It was about five o'clock. They surrounded our house and then it was quite light.

Q What did your husband do for a living at that time when the Japanese soldiers came to your house?

A He was gathering tuba from our coconut plantation and also he was gathering firewood for sale at the town.

Q When you say, "our plantation," did you and your husband own that plantation?

A That is really ours.

Q How old was your son?

A My son was born in 1924 and the arrest happened in 1944.

Q How old was your husband in December of 1944?

A He looks old.

MR. AITKEN: What age is that -- seventy-five?

A He looks old, because he had some white hair. I think he was around seventy-five at that time.

COLONEL STICKNEY: I didn't get that.

INTERPRETER BELAONG: Seventy-five years old.

COLONEL STICKNEY: Seventy-five?

INTERPRETER BELAONG: That is right, sir.

Q What did your son do for a living?

A He was helping my husband.

Q That was in December of 1944, was it?

A Yes.

Q Was your son ever a member of the guerrillas?

A No, he was not a member. He was only at grade five, and he became sick.

Q Is that in school?

A He was studying at the barrio of Concepcion.

Q Do you know whether or not he was acquainted with any members of the guerrillas?

MR. AITKEN: Objected to as immaterial.

COLONEL STICKNEY: There is an objection. Just a moment. Do you have anything to say on the objection?

MR. SCHAUER: I feel the question is material. In cross-examining these witnesses unless you attempt to find out whether or not they were connected with the guerrillas it is not enough to be able to ask them, "Were you a member of a guerrilla organization." They may not have been members, but I think we are entitled to find out whether they had any connections with the guerrilla organizations, whether they assisted them and certainly in order to do that, asking them if they were acquainted with any members of the guerrillas would be a preliminary question in determining what connection they had, if any, with guerrillas.

MR. AITKEN: The point I have in mind is that if these people were guerrillas, you couldn't execute them off-hand without a trial, unless -- even if you caught them red-handed -- but here the testimony is that they weren't guerrillas, and if they knew guerrillas you couldn't execute them for that. It is no sin to know guerrillas there. And it is no reason for arrest and imprisonment -- no imprisonment -- execution, and offhand execution merely because they knew guerrillas. What is the difference? Supposing the answer is "no", it is all right; suppose the answer is "yes", as far as we are concerned it is all right; but it is immaterial to this case.

MR. SCHAUER: Merely a yes or no answer to a question of whether or not a person is a member of the guerrillas does not mean much. Oftentimes by further questioning one may establish connections with guerrillas that may place that person or persons as members of the guerrillas.

MR. AITKEN: Even so, they are not subject to arrest and execution without trial.

MR. SCHAUER: There has been no testimony here whether or not they were given trial.

MR. AITKEN: There wasn't time for a trial under the period of time that elapsed --

MR. SCHAUER: I don't know about that.

MR. AITKEN: (Continuing) The point is that a guerrilla can't be executed without a trial, unless he is shown to have done certain acts. The mere fact that a person belonged to a guerrilla organization did not warrant his execution under the law, as far as guerrillas are concerned

there. So long as he was not captured inflagranti delicto, doing something, committing a crime or an act against the military authorities as a guerrilla, he could not be offhand executed, as he was.

COLONEL STICKNEY: The objection is not sustained. The question may be answered.

(The reporter read the question.)

A No.

Q Was he a member of the USAFFE?

A He was not a member. He was always around our place.

Q Did he help either the guerrillas or the USAFFE?

A No, we were selling firewood in order to buy rice for our consumption.

Q How long have you known Leopoldo Agravante?

A We were neighbors, and he was the first cousin of my husband.

COLONEL STICKNEY: Will the reporter read the answer

(The reporter read the answer.)

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that she is still under oath?

(The witness was reminded that she was still under oath.)

Q How long had you known Leopoldo Agravante before the 21st of December, 1944?

A It is a very, very long time because he was the first cousin of my husband, and our lands are adjoining.

MR. AITKEN: Are what?

INTERPRETER BELAONG: "Our lands are adjoining."

Q Where is he now?

A He is in Bacolod. He could not come because he is in a very serious condition. The captain went to my place and I was brought here.

MR. AITKEN: For the benefit of the Commission, if it is proper, I might say that the captain she refers to is probably Captain Gestoso from our office who went down to procure her for the office.

Q Where is he now in Bacolod, that is, Agravante?

A He is there in Balogo near Boroboro where we live.

Q What is he doing now?

A He is sick so he could not come here.

Q How long has he been sick?

A One week before September he was already sick spitting blood.

Q Is he in the hospital?

A No, he is not in the hospital now. He has nothing to spend so he stays at home, and he could not leave his

home because of his children,

MR. SCHAUER: That is all, no further questions.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No redirect.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I would like to ask whether or not in the near vicinity of where you saw your husband's body, there is a sitio, barrio, or hacienda called Matab-ang?

A There is a place called Matab-ang. That is located between Concepcion. That is a place between Concepcion and Balogo.

Q And was it near that place that you found your husband's body, your son's body?

A Yes, sir.

Q Now, I believe you stated that your son was kicked and beaten on the back and front, did you see who kicked him?

A They were the Japanese soldiers and also the Captain Nanjo.

Q Did you see Captain Nanjo kick your son?

A He kicked my husband on the forehead.

MR. AITKEN: I think the witness indicated that he went backwards now --

A And my husband fell down because of which he suffered a scratch of the forehead.

Q And did you see Captain Nanjo kick your husband in the forehead?

A Yes, I saw him, but that was only the time when he was kicked by Captain Nanjo in the forehead.

Q And did you see Captain Nanjo kick your son?

A As for my son, I did not see Captain Nanjo kick my son. But he ordered his soldiers to beat my son in the back and in the front while my son was tied with both his hands.

Q Did you hear Captain Nanjo give the orders?

A Yes.

Q And in what language did he speak?

A He only spoke in Japanese but with action indicated to punish my son.

Q And in response to those orders and gestures, what happened?

A They killed him. They killed him up the river.

MR. SCHAUER: I move to strike that as not responsive.

MR. AITKEN: No objections. I think she misunderstands the question.

COLONEL STICKNEY: That last question and answer will be stricken from the record and I will ask again.

Q In response to the orders which you heard, the gestures which you saw, what happened?

A They punished my son.

Q And of what did the punishment consist?

A First they struck my son with the rifle butt in the back. Then he turned to plead for which he was again struck in the chest. While he was reeling he was again struck and he was hit at the side and by that he fell.

Q Did you see Captain Nanjo abuse your son?

A Yes, he ordered his soldiers for which they help him punish my son.

MR. SCHAUER: I move that answer be stricken as not responsive, and also the witness has already answered that question by testifying that she did not see Nanjo mistreat her son.

COLONEL STICKNEY: The answer will be stricken from the record; it does not seem to be clear to me. I will reask the question.

Q At your home on the 21st of December when you saw Nanjo kick your husband in the forehead, did you see Nanjo mistreat and torture your son? Now, I want to pin that as to the time and place, you see.

MR. SCHAUER: With all due respect to the Commission, I object to that question on the ground that it has already been asked and answered. I believe, as a matter of fact, answered in response to a previous question which was asked of the witness by the Commission to which the witness testified that she did not see Nanjo mistreat her son.

COLONEL STICKNEY: The objection is not sustained, the question will be answered.

A Yes, that same day.

Q In what way?

(At that point a conversation ensued between the interpreter and the witness.)

INTERPRETER GENOVES: I am advising her not to answer until I finish questioning her.

A I saw him punishing my son. As a matter of fact, I pleaded for Captain Nanjo to stop punishing my son, but he did not listen.

Q Did you see Captain Nanjo inflict punishment on your son in person, as distinct from the punishment which he had inflicted upon your son through orders which he issued?

A Yes, sir. He was the one also punishing my son aside from ordering his soldiers to punish my son.

Q What punishment did you see Captain Nanjo personally inflict upon your son?

A (Demonstrating) He was the first to punish my son. He beat him and after that he also ordered his soldiers to do the next beating.

Q With what did you see Captain Nanjo beat your son -- with his fist, with a baseball bat, with an iron bar, or what with?

A He was having in his hand a piece of bamboo about the length as this (witness indicating about 2 feet), with which he was beating my son. After that his soldiers also struck him with the butt of their guns.

Q How many blows did you see Captain Nanjo inflict upon your son with the piece of bamboo?

A Twice. The first at the back and the second on the chest.

COLONEL STICKNEY: Any further questions from the defense?

MR. SCHAUER: No questions, sir.

MR. AITKEN: No questions.

COLONEL STICKNEY: I have one more question. I would like to have the witness get down from the witness stand, walk around the room carefully looking at the people, and see whether she can see Captain Nanjo here today.

(The witness approaches table of the defense counsel and speaks in Visayan.)

MR. WARD: What did the witness state?

INTERPRETER BELAONG: She said, "I cannot see. I want to be sure. I cannot see." So I instructed her to go closer.

MR. WARD: She said she could not see, is that correct?

INTERPRETER BELAONG: Yes.

MR. AITKEN: Let the record show that she put her hand ---

COLONEL STICKNEY: What did the witness just say?

INTERPRETER BELAONG: "It seems to me this is he."

MR. WARD: Did she say anything else?

INTERPRETER BELAONG: "It seems to me this is he, because at the time when they captured my son, he was wearing eyeglasses."

COLONEL STICKNEY: The record will show that the witness tapped the accused on the left shoulder. Any other questions by the defense?

MR. SCHAUER: No questions, sir.

COLONEL STICKNEY: Prosecution?

MR. AITKEN: No questions.

COLONEL STICKNEY: Witness excused.

(Witness excused.)

MR. AITKEN: For the sake of the record, I would like to state now we will make every effort to get Leopoldo Agravante here. We have his statement and I will withhold the statement until the very last moment in the case and only offer it in case of an impossibility of producing him. He would be the next witness to this particular specification. In regular order, I would produce it now, but because of the fact that we have not been able to get him here yet, but still have hopes, I won't put the affidavit in at this time, I won't offer it. I am merely offering that to show that we want to proceed in the regular way with the specifications, one after the other.

MR. WARD: As a matter of record: did you not first make your statement in regard to the affidavit as we were going to trial that the prosecution was unable to find Leopoldo Agravante?

MR. AITKEN: Unable to get him. I don't know whether they were not able to find him, or whether he was sick, but we have not been able to get him. I don't know whether they couldn't see him, but for some reason they couldn't get him.

COLONEL STICKNEY: Didn't we get information from the last witness that Leopoldo Agravante is at Balogo?

MR. AITKEN: She said he was sick and with his children.

COLONEL STICKNEY: Sick and with his children?

MR. AITKEN: Yes.

COLONEL STICKNEY: I think every effort should
be made to get him here in person.

MR. AITKEN: We will do that.

PRIMITIVA CASABUENA

a witness for the prosecution, being first duly sworn, was examined and testified as follows through Interpreters Genoves and Belaong:

MR. AITKEN: This witness is called in accordance with Specification 4.

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Primitiva Casabuena.

Q Your age?

A Thirty-nine years.

Q And your residence?

A In Bacolod City.

Q Where did you reside on or about the 18th of February, 1945?

A I was living at the Hacienda Presentacion.

Q Did you have a son there living with you?

A Yes, sir.

Q What was his name?

A Francisco Villasor.

Q Did you know a person at that time named Dionisio Antera?

A Yes, sir, he was with my son.

Q Were your son and Antera made prisoners by the Japanese on or about that date?

MR. WARD: I object to this. He may ask what happened, but he can't lead her.

MR. AITKEN: I will withdraw it.

Q On or about that date, what happened to your son and

Antera?

A From Hacienda Presentacion I, my son, and this Antera were walking towards Hacienda Matab-ang in that vicinity and we passed by the railroad track.

Q What happened?

A While we were walking, we did not know that there were Japanese soldiers hiding by the railroad track. Immediately near the place where they were hiding without our knowledge, they stood up and surrounded us. They arrested my son by the name of Villasor and Dionisio Antera.

Q Then what did they do?

A The Japanese soldiers said that they were USAFFE, but these two boys said that they were not USAFFE people.

Q Where did these Japanese soldiers come from, if you know?

COLONEL STICKNEY: Have you finished? (To the interpreter.)

MR. AITKEN: I withdraw that.

A (Continued) And as a result they were tied both hands.

Q Can you tell us where these Japanese soldiers came from?

A I could not tell where they came from, because when we were in the place where they arrested these boys, we did not know whether they came from Boroboro or from Bacolod. All we knew is that they stood up immediately and surrounded us.

Q Do you know who commanded them?

A It was Captain Nanjo.

Q Was he there?

A Yes, he was there.

Q You say that they captured the boys and tied them up. Then what further happened?

A Immediately when their hands were tied, my son pleaded and said that he was not a member of the USAFFE unit. I also helped in pleading for them, but that Captain Nanjo insisted that he was a USAFFE man. The Japanese soldiers did not believe me in my pleading that my son was not a member of any guerrilla unit or of the USAFFE organization. They only ordered me to go home.

Q And what did you do?

A These Japanese soldiers merely told me, "go," and because I was afraid, I had to go but still at that time I was also reluctant because I pitied my son. I walked slowly. In the meantime I was trying to look into the direction where my son and Antera were and I still hear at that time my son exclaiming, "Mother, help me! They are punishing me terribly! I am afraid I will die by this punishment."

Q What did you see?

A While I was in the direction of going away, as I heard my son crying for help, I turned my head towards them, wherein I saw a Japanese soldier with a stick in his hand beating my son.

Q Tell all you saw.

A At a certain distance I saw them also that they struck my son with a saber point in the chest, about the lower part of the nipple.

Q Who did you see strike him with the saber?

A A soldier of Captain Nanjo.

Q What was Nanjo himself doing?

A He ordered only his soldiers, after beating my son, with a saying like this in the Japanese way of English: "Okay. Kill. USAFFE member."

Q Tell all you saw.

A As I turned back to help my son from the punishment, I was obstructed by a Japanese soldier telling me that my son would be killed. I saw my son and Antera fell and I could not do anything. Now on my way home, I met a man by the name of Gil Tanique. When I saw Gil Tanique I told him about my son and Antera were killed by the Japanese. Gil replied, "I saw the Japanese soldiers on the railroad track and I, myself, hid too because I was afraid." And then I asked him what I shall do and Gil told me, "We cannot do anything now. We will visit the place about 5 o'clock later on."

Q Did you actually see your son and Antera killed?

A Yes, sir.

Q What I want you to do is to tell us how you saw them killed.

A That is all I saw. As I told you already before, they pierced with the saber point my son and Antera. I will ask permission to expectorate outside.

INTERPRETER GENOVES: If it please the Commission, the witness would like to expectorate outside.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 0830 on the 10th of October.

(The Commission adjourned at 1500 hours to reconvene at 0830 hours, 10 October 1946.)

AE

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
10 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CT
MAJOR MILTON B. HERR, Sig C

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2ND LT. HARUZO NITTA	)	Japanese
Tec 3 TAKEO SAITO	)	
FILOMENA ZOSA	)	Ilongo (Visayan)
PEDRO GENOVES	)	
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>PERDIRECT</u>	<u>PERCROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Primitiva Casabuena					
(Cont'd)	240	243		266	251
				277	280
				280	
Flena S. Beter	284	285			
Gil Tonique	286	291			

P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 10 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the reporters and the official Interpreters Belaong and Genoves are all in court.

Will you remind the witness that she is proceeding under the oath administered previously?

(Witness reminded that she was still under oath.)

PRIMITIVA CASABUENA

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

DIRECT EXAMINATION (Cont'd)

BY MR. AITKEN:

Q About the close of the last session, I think you mentioned that you had spoken to Gil Tanique with reference to the killing of your son, Francisco Villasor, and Dionisio Antera. After you spoke to Gil, did you return to the scene where the men were killed?

A Yes, I did meet Tanique --

MR. SCHAUER: I don't believe --

MR. AITKEN: Let's get the answer.

A (Cont'd) and I asked him to help me with regard to my son, and he told me that "Right now we cannot do anything because the Japanese possibly are still there. If you would wait then I would help you so that we can go back to the scene and see what we can do with regard to your son".

MR. SCHAUER: I move that that answer be stricken. That was not responsive to the question asked.

MR. AITKEN: I think it is responsive. It is a part of the answer. It is not a complete answer, I will admit that, but she is telling the beginning of what she did in regard to the question of whether she went back.

MR. SCHAUER: She can answer that question of whether she went back by yes or no.

COLONEL STICKNEY: I believe this whole answer now is more or less a repetition of something we had yesterday.

MR. SCHAUER: And it is not responsive to the question counsel asked. He asked whether or not she went back and she relates something which is completely unresponsive to that question.

COLONEL STICKNEY: That would seem to be correct. I believe this last question and answer should be deleted.

MR. AITKEN: I will withdraw it.

Q Now, after you spoke to Gil Tanique sometime later did you return to the scene where the men were killed?

A Not yet, only I went there at about six o'clock in the afternoon.

Q All right, that is what I am asking you, what did you do at six o'clock in the afternoon?

A At about six o'clock I and Gil Tanique went to the place where my son and Antera were killed. As we reached the place we found the two dead bodies and all that we did was to bury them with the help of course, of Tanique. After that we went home. I, on my way to my place in Hacienda Presentacion, and Gil Tanique went to his home in Santa Romana.

Q Now, prior to burying them, did you examine the bodies?

A Yes, sir.

Q Now, what did you find the condition of the body of your son to be with reference to wounds?

A I saw my son wounded in the chest and on the stomach. The same case was also found in the body of Antera.

MR. SCHAUER: Would you read that last answer.)

MR. AITKEN: The same as was to the body of Antera.

MR. SCHAUER: That is chest and stomach?

COLONEL STICKNEY: Would you like the reporter to read it?

MR. SCHAUER: Yes, if the Commission please, so that I can make my notes.

(Last answer read by the reporter.)

Q Now, from the nature of these wounds, could you tell whether they were bayonet wounds or sword wounds?

A They were wounds caused by the saber.

Q Could you give us any better description of the wounds -- any further description of the wounds, put it that way.

A When we looked at the wounds, it was as I could see caused by the saber. The way how it was struck was, I think, a thrust because at the time when I was there with my son being arrested, I saw how he was struck by the saber.

Q What did you see, tell us what you saw?

MR. SCHAUER: I am going to object to this question on the grounds it has already been asked and answered. I believe the witness testified yesterday as to how her son was struck.

COLONEL STICKNEY: I would like to ask the prosecution about that.

MR. AITKEN: I don't remember, I am not quite sure. I think the witness did say something about it, but I don't remember now whether she said it or was confused whether she did not say it, or whether it was done by soldiers or the accused. I am not certain.

That is why I thought that I would ask the question now because she stated definitely at this time that she saw saber wounds inflicted.

COLONEL STICKNEY: Does the reporter have it?

MR. SCHAUER: The other reporter is, I believe, the one that took that down. She was the last one here.

MR. AITKEN: I will withdraw the question.

Q How many Japanese in that particular patrol carried swords?

A Only one.

Q Do you know who that one was?

A It was Captain Nanjo.

Q Now, after you returned to this place and found these bodies, did you bury them?

MR. WARD: Objection again. Again this has been asked and answered.

MR. AITKEN: Yes, I will withdraw it, I think it is repetitious.

COLONEL STICKNEY: You might have saved a few minutes by objecting quickly.

MR. AITKEN: That may go out. Your witness.

CROSS-EXAMINATION

BY MR. SCHAUER:

Q How old was your son on the 18th day of February 1945?

A Twenty-three years old.

Q What did he do for a living?

A No other but plowing the field by which we could live on.

Q What sort of food was grown in the field?

A There were sweet potatoes and casava.

Q Was that your land?

A No, sir.

Q Did your son work for somebody else on that land?

A It is worked by my son, but the land is owned by Felix Lizares.

Q How long have you known Antera?

A Early in the days before the war.

Q Do you know what he did for a living?

A I did not know, because he lived in a far place from our house. He only used to come to our house.

Q Was your son a guerrilla?

A No, sir, he was a civilian.

Q Was he a member of the USAFFE?

A No.

Q Do you know whether or not he helped the USAFFE or the guerrillas?

A How could he for whatever he earned is even less for our meals.

MR. SCHAUER: Will you repeat that question, that was not a responsive answer.

Q Did your son help the guerrillas or the USAFFE?

A No.

Q Did he ever supply them with food?

A Whatever he earned was even less for our own needs.

Q Do you know whether or not your son ever supplied the USAFFE or the guerrillas with food?

A No.

Q What day was it that your son and Antera were arrested by the Japanese?

A It was Friday.

Q What day of the month?

A 18 of February.

Q About how far is it from Hacienda Presentacion to the Hacienda Matab-ang?

A About three kilometers.

Q How far is the railroad track from Hacienda Presentacion?

A About half a kilometer.

INTERPRETER BELAONG: Correction -- "About one kilometer".

Q About what time was it that you left the Hacienda Presentacion to go to Matab-ang?

A About six o'clock in the morning.

Q Was anyone else with you besides your son and Antera?

A No other, we were only three.

Q Just what did the Japanese soldiers say to you and your son, and Antera, when they surrounded you near the railroad track?

A When they surrounded us they told us, these Japanese soldiers said, that my son was a USAFFE. My son replied that he was not, and I also told them that my son was not a member of the USAFFE.

Q Was Captain Nanjo there at that time?

A Yes, sir.

Q Did he say anything?

A Yes, sir.

Q What did he say?

A He said that my son was a USAFFE, and I also told him that my son was not a USAFFE.

Q Did he say anything else?

A No other, that is all that he said and further ordered "O.K. kill them".

Q Did he speak in English or in Japanese?

A They were speaking in Japanese, but he was telling "O.K. kill them" that was the word I understood from him.

Q Do you understand any English?

A No.

Q When he used the word "kill" in what language was he speaking?

INTERPRETER BELAONG: Would it please the Commission, I would like to register for this particular word that "O.K." would mean that is a Visayan word. We describe that "O.K." as an English word by "Patay" but Patay is a Visayan word meaning kill.

COLONEL STICKNEY: Now, we don't have an answer to this question yet, do we?

MR. SCHAUER: No.

A He said "O.K. Patay".

Q In other words, he used a Visayan word, is that correct?

A He was speaking in Japanese and Visayan and a mixture of English.

Q You say the Japanese soldier told you to go home, is that correct?

A Yes, sir.

Q How far back did you walk after that?

A I walked a distance from where I am sitting now up to that barbed wire fence.

MR. AITKEN: It had already been stipulated about thirty-five yards.

MR. SCHAUER: Yes, thirty-five yards.

Q When you turned around after that, had the Japanese soldiers moved any?

(I withdraw that.)

Q Did the Japanese soldiers stay where they were when you turned around and walked away?

A They went away.

Q Did they go away as soon as you turned around to go back to Hacienda Presentacion?

A Yes, sir.

Q Then, they went on toward Hacienda Matabang, is that correct?

A I could not tell because I was going on my way and I could not tell where they were going.

Q When you had walked the distance from where you are now to that wire fence away, and turned around, how far then were you from the Japanese?

A The same distance because I went away towards my place.

Q Well, then, when you turned around after having walked away, the Japanese were in the same spot where they were when they had ordered you to leave, is that correct?

A At the time that I left the place I saw my son and Antero in the same spot together with the Japanese.

Q How many Japanese soldiers were there?

A I could not tell. I could not think of anything at that time, because of the situation in which my son was.

Q Were there many soldiers?

A There were many.

Q Were there as many soldiers as there are people in this courtroom here?

A I could not think of the number, because I was not able to think well, because of that situation in which we found ourselves.

Q Were all the Japanese soldiers armed?

A Yes, sir.

Q What were they armed with?

A Rifles.

Q Were there any bayonets on their rifles?

A No. The bayonets were placed on their waist.

Q What did Captain Nanjo have?

A He was having with him a saber and a pistol.

Q Did any Japanese soldier follow you when you turned around and walked away?

A No, sir.

Q After you had walked away and turned around to look back at your son, did you start to go toward the Japanese soldiers?

A No, sir.

Q What was the first thing you saw when you turned around?

A When first I turned my head towards them, I saw them that they were striking my son.

Q Did Captain Nanjo strike your son?

A No, sir.

Q What was the next thing you saw after they struck your son?

A It was then when they killed my son with a thrust of a saber.

Q Were there any Japanese soldiers between you and your son at the time you say your son was killed?

A No, sir, because that Japanese immediately went back. I was not able to reach towards them, because he immediately blocked my way.

Q Where were the other Japanese soldiers at the time you say your son was killed?

A There also in that place.

Q Were they gathered around your son in a circle?

A Yes, sir.

Q So that there were some Japanese soldiers between you and your son, is that right?

A They were not really encircling my son. They were behind my son when my son was being killed and between me and my son. I could see him plainly because nobody was obstructing my sight.

Q Captain Nanjo didn't strike your son with a saber, did he?

A It was he.

COLONEL STICKNEY: Will the reporter read that answer?

(The reporter read the answer.)

Q Captain Nanjo, you say, ordered the killing of your son,

is that correct?

A Yes, sir.

Q Now, isn't it true that one of the other soldiers actually struck your son with the saber?

A No, sir. It was he.

Q Was it Captain Nanjo himself that killed your son?

A It was he.

Q Didn't you testify yesterday that it was one of his soldiers that killed your son?

A No, sir.

Q You did not testify it was one of his soldiers that did it, did you?

A No, sir.

Q How many times did Captain Nanjo strike your son?

A Twice. Those were the only wounds I saw -- on his chest and on the stomach.

Q Did you actually see him strike your son twice?

A I saw him.

Q Did you see him do anything to Antera?

A Yes, sir.

Q What did he do to Antera?

A In the same way that they killed my son, by also thrusting a saber upon him.

Q Was it one of the Japanese soldiers that killed Antera?

A No, sir.

Q Did you hear Captain Nanjo say anything other than giving the order to kill your son?

A I had heard nothing more, because I was far away.

Q Was it Captain Nanjo himself that accused your son of being a member of the USAFFE?

A Yes, sir.

Q Did he talk to your son in Japanese?

A The same way that he said, "Okay, kill him. He is a member of the USAFFE."

Q When he accused your son of being a member of the USAFFE, did he speak in Japanese or in Visayan, or in English, or in just what language did he speak?

A He spoke also in English language, such as the word, "Okay." Also other words in Japanese.

Q Do you understand any Japanese?

A No, sir, that was all I heard.

Q How do you know then that he accused your son of being a member of the USAFFE?

A He did not say the word, but I could understand when he quoted the word, "USAFFE."

Q The only word you understood that he said was, "USAFFE," is that correct?

A Yes, sir.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Redirect?

MR. AITKEN: No redirect.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Did you hear Captain Nanjo say anything in Visayan?

A No other, except the word he said, "Okay. Patay."

INTERPRETER BELAONG: I wish to have that translated: "Okay" is English word for "Okay." "Patay" for "kill."

Q What Visayan words did you hear him use?

A "Okay. Patay."

Q Is "Okay" a Visayan word?

A That is an English word, because that was the experience I have heard from people saying "Okay."

COLONEL STICKNEY: Will the reporter read that answer?

(The reporter read the answer.)

Q Was it a Visayan word? Answer "yes" or "no."

A I cannot understand that word really in English, but so far as I know, it is an English word.

COLONEL STICKNEY: We are going to adjourn but when we ask for a "yes" or "no" answer, we ought to get a "yes" or "no" answer.

The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Please remind the witness that she is proceeding under oath. (Witness so reminded.)

Q How many times did you hear Captain Nanjo speak?

A I could not remember now because at the time I was completely confounded with fear and sorrow over my son.

Q Did you hear him speak while you were close to him?

A Yes, sir.

Q When you were close to him, what language, or languages, did you hear him speak?

A Only that phrase, "O.K. patay, O.K. patay USAFFE."

Q When you heard him say, "O.K. patay," how many times did he say that?

A I could not remember how many times, but I was sure that he spoke that phrase.

Q More than once?

A More. Let us say only once, because that is what I could remember right now.

Q You now say that you heard him say that only once, is that correct?

A Several times, but I could not remember exactly how many times.

Q I will ask you again, was it more than once?

A He spoke that phrase about three times, I think.

Q And how close to him were you the first time you heard him say, "O.K. patay"?

A I was near. My distance is only from the place where I was up to that place.

INTERPRETER BELAONG: Indicating from the place where the witness now is up to the door of this Court.

COLONEL STICKNEY: Will the prosecution and the defense stipulate on the distance?

MR. AITKEN: 25 feet, I suppose something like that.

MR. SCHAUER: 25 or 30 feet.

MR. AITKEN: I would say 25 feet is close enough.

Q And how far away from him were you when you heard him say, "O.K. patay" the second time?

A I think my distance is about from the place where I am sitting now up to the middle of the road.

MR. AITKEN: Another 25 feet.

MR. SCHAUER: It will be about 60 feet.

MR. AITKEN: Well, that is all right.

Q And how far were you from him when you heard him say, "O.K. patay" the third time?

A I could not tell now how far I was then, because I was crying and I could not remember anything then except crying over my son.

Q When you heard him say that the first time, weren't you standing in the group with him?

A I was not in the group.

Q Were you at that time moving away from the group?

A I was going towards them, but then a soldier came in front of me to stop me.

Q Did you see anything happen as the result of that first command, "O.K. patay"?

A Yes, sir.

Q What?

A That was the time when they struck my son.

Q With what did they strike him?

A They struck him with a piece of wood.

Q Where did they strike him?

A I could not now exactly remember where, because then my sight was rather blurred because of my fear.

Q Do you know who struck him that time?

A I could not exactly tell whether it was one of his soldiers or not.

Q When you heard Captain Nanjo say, "O.K. patay" the second time, were you walking away from his group?

A I was coming towards them.

Q You had gone about 25 feet farther away from him between the first time you heard "O.K. patay" and the second time you heard "O.K. patay." How do you account for the fact that you were coming toward him, when, in the meantime, you had gotten farther away from him?

A Well, at the first time when I heard him say, "O.K. patay" I was going towards them. But, by the second time that I heard him say, "O.K. patay," while I was still going towards them, a soldier came in front of me and I was stopped by him.

Q Between the first time that you heard him say, "O.K. patay" and the second time that you heard him say, "O.K. patay," had you moved 25 feet farther away from him, or had he moved 25 feet farther away from you?

A After the second time when I heard him say, "O.K. patay" that was at the time when I was told to go home, so I was already going away from them.

MR. SCHAUER: I move that that be stricken -- that is not responsive to the question asked.

COLONEL STICKNEY: I believe a part of it is, the last part.

MR. SCHAUER: Well, I will withdraw the motion to strike.

Q When you heard "O.K. patay" the second time, did you see anything happen?

A That was the time when they thrust the saber on my son.

Q Was that the time that you saw someone thrust a saber at your son?

A Yes, sir.

Q Do you know who you saw thrust the saber that time?

A It was Captain Nanjo.

Q Are you sure of that?

A I am very sure.

Q When you heard him say, "O.K. patay" the second time, did you see any reaction of any of his soldiers to that command, "O.K. patay"?

A No, sir, I was not able to know anything.

Q And the first time that you heard him say, "O.K. patay," the only reaction, if any, on the part of his soldiers that you were able to see, was somebody striking your son with a piece of wood, is that correct?

A Yes, sir.

Q And the third or last time that you heard him say, "O.K. patay," were you then standing still, or coming toward him, or going away from him?

A I was already going away from them, because that was the time then when I was told to go home.

Q Did you see anything happen at that time?

A No, sir, because I was afraid so I was going on my way.

Q Did all of this happen at or near Hacienda Carmen?

(The interpreter had considerable discussion with the witness.)

COLONEL STICKNEY: I withdraw that. Do you have the answer?

INTERPRETER BELAONG: No, not yet.

COLONEL STICKNEY: I will withdraw that question.

Q How far was it from Hacienda Carmen where you saw Captain Nanjo on the 18th of February?

A About one kilometer.

Q How old was Dionisio Antera in 1945?

A He is as old about that man (pointing to Interpreter Genovos).

Q Was he older or younger than your son Francisco?

A Antera was older than my son.

Q How much older?

A I could not exactly tell now, because at that time my son was 23 years old.

Q Did Antera used to come to your place often?

A He used to go to our place a few times. Only that occasion we happened to go together.

COLONEL STICKNEY: Will the reporter read that answer, please?

(Reporter read the answer.)

Q Why did he used to come to your place?

A It was no real purpose whatsoever, only because he and my son were friends.

Q Do you know on what that friendship was based?

A I could not really tell how they happened to become friends.

For all I know, they were already friends and they used to go together.

Q For how long had they been friends?

A Since the pre-war.

Q On the date in question, 18 February 1945, how many sabers did you see among the Japanese who were present at the scene?

A Only one.

Q And that was Captain Nanjo?

A Yes, sir.

Q Did you see any one of his soldiers with that saber at the scene of the killing?

A It was he who was using the saber.

Q I will ask you, did you see any of the soldiers under Captain Nanjo at the scene of the murder, scene of the killing, with the saber?

A No, I did not see. It was Captain Nanjo who was using the saber. His soldiers had guns with them.

Q What part of the body of your son did you see pierced with the saber?

A It was here (indicated by the witness on the lower part of the nipple of the right chest and on the stomach.)

Q Did you see your son's body pierced twice with the saber?

A I saw at the time of the killing with my own eyes that he was thrust through with the saber once. When I came back in the afternoon to find his dead body, I found that there were two wounds caused by a saber thrust.

Q Which, if either, of these two wounds had you seen inflicted?

A So far as I could remember, at the time when I saw him being killed, he was struck on the chest.

Q Did you see Antera killed?

A I saw him.

Q How was he killed?

A At the time when my son was being killed, almost at about the same time, I also saw Antera being killed by the soldiers. But as to how he was struck, I could not remember. All that I knew that he was killed was because when I came back at 6 o'clock I found him and my son dead.

Q Did you see a blow delivered against Antera, which, in your opinion, might have been fatal?

A No, sir.

Q In response to the order, "O.K. patay," given three times by Captain Nanjo, did you see any action taken any of those times by any of his soldiers?

A No, sir.

Q You and your son and his friend were questioned about the USAFFE by the Japanese soldiers, is that correct?

A They did not ask us. Only they said, "USAFFE."

Q And what reply did you and your son and his friend make?

A My son and Antera said that they were not USAFFE, I also told them that my son was not a member of the USAFFE,

Q And what language did you and your son use in making this denial?

A We were speaking in Visayan, because I do not know English,

Q Was there an interpreter present?

A I could not tell.

Q Will you state in Visayan, as near as you can, the words that you used?

A I spoke in Visayan and told them that my son was not a member of the USAFFE, but that he was purely a civilian.

Q And did you say that in Visayan?

A Yes, sir.

Q I would like the witness to give me the Visayan words she used and have the Visayan words come into the record.

A Indi USAFFE ang bata ko kondi sivilian gid nga ultimo.

Q Did the Japanese appear to understand what you were saying?

A Yes, they seemed to understand.

BY COLONEL MacKINTOSH:

Q Did any of the Japanese soldiers have their bayonets attached to their guns?

A I cannot recall.

Q Did any of the Japanese soldiers have their bayonets in their hands?

A I did not see.

BY MAJOR FRITZ:

Q How far were you from your son when you heard him cry out?

A I was at a distance from where I am sitting now to that barbed wire fence, as I have told before (pointing through the door of the courtroom).

COLONEL STICKNEY: I believe that has been described as 35 yards.

MR. AITKEN: 35.

MR. SCHAUER: That is correct.

Q Did you hear Captain Nanjo speak to the men before or after your son cried out?

A I heard Captain Nanjo saying those words "O.K. patay," after they had tied the hands of my son.

MR. SCHAUER: I move to strike. It is not responsive.

COLONEL STICKNEY: That was not an answer to your question?

MAJOR FRITZ: No, sir. The response helps clear up a question that is in my mind partially.

COLONEL STICKNEY: The motion is denied. It will stay in for any probative value it may have.

MAJOR FRITZ: I will repeat the original question to get the balance of the answer. Will you repeat my original question?

(The reporter read the last question.)

A I did not hear.

Q What did you not hear?

A I did not hear what he said.

Q You stated that Captain Nanjo gave the command, "O.K. patay. USAFFE." Did he make that statement before or after your son cried out?

A I heard Captain Nanjo order, "O.K. patay" first. Then I heard my son.

Q How far were you from your son when you saw him being beaten with a stick?

A That is what I say -- of a distance from where I am sitting now to that barbed wire fence (pointing through the door of the courtroom).

COLONEL STICKNEY: That has been designated as 35 yards, wasn't it?

MR. SCHAUER: That is correct.

MR. AITKEN: Yes.

Q Gil, the friend of your son, where did he stay in your barrio during the time that he visited?

A You mean Gil Tanique?

Q Yes.

A Hacienda Romana.

MR. SCHAUER: I move to strike that. Again that is not responsive. That is where he lived, not where he stayed in the barrio when he visited the son.

MAJOR FRITZ: Strike that last question. I will reword it.

Q When Gil Tanique visited your son, where did he stay?

A You mean you are asking me a question of where he stayed at the time he visited my son?

Q That is correct.

A If he visited us, he stayed at home.

Q At your home?

A Yes, sir.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Please remind the witness she is proceeding under oath.

(Witness reminded that she is still under oath.)

Q When Dionisio Antera visited your son, where did he stay?

A At my house.

Q How long was the sword which you saw?

A I cannot tell how long because that time my eyes were watered with tears. What I saw was that the sword was dangling from the waist down to the foot, from the knee.

(Reporter asked if she could read the answer back.
Answer read back to interpreter.)

COLONEL STICKNEY: Was that down to "a" foot from the knee, which was that that you said?

MR. AITKEN: Below the knee. I would like to call your attention to the fact that when the witness answered the question she made an indication.

MAJOR FRITZ: Will the interpreter stand up and ask the witness to measure it off on your body?

(Interpreter Genoves went over to witness, and witness indicated what she meant.)

INTERPRETER GENOVES: "From the waist up to the middle of the leg."

MR. AITKEN: I suggest that the indication is that from the waist she says to midway between the knee and the ankle.

COLONEL STICKNEY: Does that appear correct to the defense?

MR. SCHAUER: Yes, that is satisfactory.

Q When you saw your son being struck, how was the sword held?

A I seem not to recall because it was a long time ago. Besides, I was so dizzy because of the situation of my son.

Q Have you ever seen Captain Nanjo wear glasses?

A Yes.

MAJOR FRITZ: I have no more questions.

COLONEL STICKNEY: Any other questions?

BY COLONEL STICKNEY:

Q Had you known Captain Nanjo long prior to the 18th of February, 1945?

A No, I came to know him only at the time when he arrested my son because his soldiers said he was Captain Nanjo.

Q Do you know what position he held at that time, and had held prior to that time?

A I know he was the Captain, because he was the one in command of the soldiers -- that was the time of the incident.

Q Do you know whether he was a garrison commander or not?

A No -- I know.

Q What do you know?

A Boroboro garrison.

Q How do you know that?

A That was what people in the vicinity said, that Captain Nanjo was the commander of the garrison at Boroboro. But at the time when they arrested my son I did not know whether they came from Boroboro or Bacoled garrison.

Q Have you seen Captain Nanjo since that time.

A No, never again.

Q Had you ever seen him before that time?

A No.

Q For how long a period of time did you see him, an hour, two hours?

A I cannot recall, how many minutes, how many hours, but I am very sure that he was the one who arrested my son.

Q If he were here in this courtroom today could you point him out?

A Yes.

Q Will you look around and see if you can find him here?

A Shall I stand and go about?

Q Yes.

(Witness leaves stand, and goes over to the defendant's table.)

A This one.

COLONEL STICKNEY: The record will show that the witness placed her hand on the head of the accused.

MR. WARD: May it also show in the record that there was no hesitation at all in her identification of the defendant.

MR. AITKEN: That is right.

COLONEL STICKNEY: Will the reporter read that please.

(Statement made by defense counsel read.)

BY COLONEL MacINTOSH:

Q On the 18th of February in 1945 was Captain Nanjo dressed in the same manner or differently than the rest of the soldiers?

A Different.

COLONEL MacINTOSH: That is all.

COLONEL STICKNEY: Anything from the defense?

RECROSS-EXAMINATION

BY MR. SCHAUER:

Q You say that was the only time you ever saw Captain Nanjo, at the time when your son was arrested, is that correct?

A Yes.

Q About how long did you see him at that time, how many minutes?

MR. AITKEN: I am going to object to the question. It is just repetitious. It was asked a moment ago by a member of the Commission and answered by the witness. I haven't any desire to shut off cross-examination on the part of the defense, let him have the widest scope, but that is going over the same ground, over and over again.

MR. WARD: This is cross-examination.

COLONEL STICKNEY: Any reply from the defense?

MR. SCHAUER: No reply.

COLONEL STICKNEY: The objection is not sustained.

A I cannot recall how long it was, the only thing I am sure is that he was the one I saw there.

Q Would you say it was fifteen minutes?

A I cannot say how long it was.

Q Was it less than an hour?

A I think not more than an hour.

Q After that time you never saw Captain Nanjo then until you came to court here yesterday, is that correct?

A Yes.

Q Have you seen any pictures of Captain Nanjo?

A I did not see.

Q Do you recall talking to an investigator about this case?

A What do you mean by investigator?

MR. AITKEN: I think the question ought to fix the time and the place, otherwise there will be an objection.

MR. SCHAUER: We don't know the time and place. We would like the witness to tell us. As far as the Commission is concerned, it is the witness' testimony that she only saw the defendant this one instance, the one occasion, she never saw him before or after, and without a moment's hesitation she picked him out as Captain Nanjo. That one and only time having occurred over a year and a half prior.

MR. AITKEN: Well, I am not arguing over that phase of it at all. The point is that when you ask a witness about a conversation, certainly it is customary to set the time and place.

MR. SCHAUER: I want the witness to tell me if she can recall. I have asked her if she did talk to an investigator. I have only asked that as a preliminary question.

MR. AITKEN: The objection still stands.

COLONEL STICKNEY: Are you able to tie it in as to time and place in any way?

MR. SCHAUER: Well, I don't know when or whether she had a conversation. I would like to know, I would like to know how it is that she identifies this man.

COLONEL STICKNEY: We are considering now the particular ruling on the objection to the question at issue?

MR. SCHAUER: Yes.

COLONEL STICKNEY: And you are not able to tie it in as to time and place?

MR. SCHAUER: No, I don't know whether she had a conversation or what happened, that is the reason I was asking the question to find out if she did have a conversation.

MR. WARD: That was perfectly correct, Mr. Aitken's objection would be perfectly satisfactory if we were impeaching this witness, we would have to have a foundation in it. Here, we are not attempting to impeach the witness, we are merely asking her a question.

MR. AITKEN: I will withdraw the objection, that will fix it.

COLONEL STICKNEY: The question will be answered. Will the reporter please read the question.

THE REPORTER: "Do you recall talking to an investigator about this case?" Answer, "What do you mean by investigator?"

Q Did somebody come to see you down at Bacolod some time ago and ask you questions about what happened to your son in February, 1945?

MR. AITKEN: Just a minute, I object to that. If it is preliminary to impeachment. Otherwise it should be tied in with time and place, or person and persons present. If it is merely a preliminary question to asking her whether somebody showed her a photograph or something of that kind I would have no objection.

MR. SCHAUER: That is what I am trying to establish.

MR. AITKEN: If you will make the statement it is preliminary.

MR. SCHAUER: It is a preliminary question to find out whether or not at that time pictures were shown to her.

MR. AITKEN: All right, no objection to it then.

COLONEL STICKNEY: I think it might save time when we have a question to which there is going to be an objection, if we have the objection before the translation takes place, then if it is withdrawn we will save that time.

MR. AITKEN: All right, I will do that but I stopped at the time because the interpreter had started, and I did not want to interfere. You can answer that.

COLONEL STICKNEY: Will the reporter read the last question please.

(Last question read by the reporter.)

A Nobody.

Q Did you ever write out or sign a statement about what happened to your son?

A You mean an affidavit?

Q That is correct.

A Yes.

Q How long ago was that?

A I cannot recall the month, but only the year -- 1946.

Q Was it the early part of 1946?

A Around the month of March.

Q Was that at Bacolod?

A Yes. What do you mean, "Bacolod"?

Q Was it in Bacolod that you signed this affidavit?

A Yes.

Q And at the time you signed that affidavit, a man talked to you about what happened to your son, did he not?

A No.

Q Didn't he ask you any questions?

A What? Questions of what?

Q About what happened to your son?

A The one who made my affidavit was the one who asked me questions.

Q And you told him what happened to your son and to Antera, isn't that right?

A Yes.

Q At that time did he show you any pictures of Captain Nanjo?

A No.

Q Or did he show you Captain Nanjo?

A No.

Q Did you tell him what Captain Nanjo looked like?

A He did not ask me that question.

Q Did anybody tell you yesterday that this man, the man you identified as Captain Nanjo, was Captain Nanjo?

A Nobody told me.

Q Do you remember being over there yesterday morning (that is, at the side of the High Commissioner's Residence, let the record show) with the other witnesses who have testified in this case?

A I was inside in the office of that woman who was here (indicating the bench to right of rear of the interpreters' stand).

Q There were other people who have come here to testify with you, were there not?

A Do you mean to ask me questions that from the time we came from that place, going to that place to that truck, back to the OCCW?

COLONEL STICKNEY: Will you read me the previous answer?

(The reporter read the previous answer.)

(At this point there was considerable discussion at the defense counsel table.)

MR. SCHAUER: I am sorry to delay the Commission this way, but we are trying to get information from the defendant here, working through the interpreter. That takes a little time.

COLONEL STICKNEY: Do you understand the present situation? You have asked a question and you have gotten

a question in reply.

MR. SCHAUER: Yes, sir.

INTERPRETER GENOVES: The witness indicated the place from where ---

COLONEL STICKNEY: Hold it a minute. This is the second time when you are trying to talk between the defense counsel. The defense counsel asked a question; he got a question in reply; and while he was getting the reply his attention was distracted, so that he did not know what was happening. Then we again tried to get that question across to him and he was again distracted. Can we get that much of it out of the way, before there is a third distraction?

MR. WARD: I was merely trying to clear up the exact facts at the time, and I understood the questions as being understood by the witness were being understood erroneously. I was trying to clear up the record, as to what the facts actually were. There will be no more distractions. The facts are now ascertained.

COLONEL STICKNEY: Does either of the defense attorneys know what the status is right now? Have we got a question or what is the exact status at this moment?

MR. SCHAUER: I will withdraw the last question I asked.

Q Do you remember coming here yesterday morning in the truck with some other people?

A Yes.

Q After you got here yesterday with those other people, didn't those other people point the defendant out here, Nanjo, as being Captain Nanjo, to you?

A They didn't tell me, neither did they point out to me Captain Nanjo.

Q Do I understand you to say that they did not tell you that this man here (let the record show that I am indicating the defendant) was Captain Nanjo?

A They did not tell me.

Q At no time yesterday then did anybody tell you that this was Captain Nanjo, is that right?

A No. Since the time we arrived from the place where we are kept before we come here to testify.

Q Did anybody tell you today that this man here (indicating the defendant) was Captain Nanjo?

A No.

Q When Captain Nanjo gave the order, "Okay, patay," what did the other Japanese soldiers do?

A They did not do anything.

Q At that time were their bayonets still hanging by their side?

A Yes.

Q Did they do anything with those bayonets when Captain Nanjo gave that order?

A They didn't do anything. It was Captain Nanjo who killed my son.

Q You did not actually see Captain Nanjo pierce or strike Antera with his saber, did you?

INTERPRETER GENOVES: May I instruct the witness that before I have finished my question she will not answer it?

MR. SCHAUER: I thought she didn't understand

English.

INTERPRETER GENOVES: Because she is trying to answer ahead.

COLONEL STICKNEY: Yes. Will you instruct the witness that she must wait until you have finished the question, before she starts to answer.

MR. AITKEN: I would like to have the last question read because I am not in accord with the interpreter -- I think -- I don't know. I know there was something she said.

(The reporter read the last question.)

MR. AITKEN: Anters. That is correct.

A I did not see him.

Q Do you understand any English at all?

A No.

Q When your son cried out, was that before or after you heard Captain Nanjo give the order, "Okay. Patay," for the second time?

A I cannot exactly recall the time my son cried when Captain Nanjo said, "Okay. Patay."

Q Is that when he said, "Okay. Patay," for the first time or the second time or the third time?

A My son cried at the time when they struck him with the piece of wood.

Q Was that before or after you heard Captain Nanjo give the command for the first time?

A That was the first time.

Q And at that time you were as far away from Captain Nanjo and from your son as you are now from that barbed wire fence out there, is that correct? (Pointing through the door of

the courtroom).

A Yes.

MR. SCHAUER: May the record show that is the distance we previously agreed upon as being approximately 35 yards.

Q Then it was at that time that you turned around and saw them hitting your son with a stick, is that correct?

A Yes.

COLONEL STICKNEY: The Commission will recess until 1300 hours today.

(The Commission adjourned at 1120 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, official reporter, and interpreters are all present in court. At the end of the session I believe Primitiva Casabuena was undergoing recross-examination.

PRIMITIVA CASABUENA

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

COLONEL STICKNEY: Has she been reminded about her oath?

MR. AITKEN: Will you please remind the witness that she is proceeding under oath.

(Witness reminded that she was still under oath.)

FURTHER RECESS-EXAMINATION

BY MR. SCHAUER:

Q Did you notice whether or not Captain Nanjo walked with a limp?

A I was not able to notice anything any more.

Q In other words, you do not know whether or not he did walk with a limp, is that correct?

A I was not able to notice anything.

Q Who told you at that time, that is at the time that your son was arrested, that the person in charge of the Japanese troops was Captain Nanjo?

A He himself.

Q What did he say to you?

A He was telling me, "O. K. Patay," and I pleaded for my son, telling him that my son was not a USAFFE.

MR. SCHAUER: May that be stricken as not responsive to my question -- may that be stricken as not responsive to the question I asked.

COLONEL STICKNEY: Will the reporter read the question please.

(Question referred to read by reporter.)

MR. SCHAUER: I believe that that question would have to be read in connection with the previous question I asked, in order to determine whether or not it is responsive.

COLONEL STICKNEY: Read the last two questions and the last two answers.

(Last two questions and answers read by reporter.)

COLONEL STICKNEY: The last question and answer will be stricken.

Q When this person that called himself "Captain Nanjo" told you he was Captain Nanjo, what words did he use to tell you that he was Captain Nanjo?

A He told me, saying, "O. K. Patay," and that was when I knew that he was Captain Nanjo telling that.

Q Well, then, nobody told you at that time that he was Captain Nanjo, is that correct?

A His soldiers mentioned his name, and since that time I did not forget him.

Q What did the soldier say who mentioned his name?

A One of the soldiers, one of the group there, asked, "What is your decision, Captain?" and the Captain replied, "O. K. Patay."

Q In what language did this Japanese say, "What is your decision, Captain"?

INTERPRETER BELAONG: Will you please repeat the question, she seems not to understand it.

(Question repeated by reporter.)

A It was his words that I know saying, "O. K. Patay."

Q Will you please repeat the last question again?

(Last question read by reporter.)

A In Japanese.

Q You do not understand Japanese, do you?

A No.

Q What else did any of the Japanese soldiers say to this person that you call "Captain Nanjo"?

A No other.

Q So from those words ~~which~~ this one Japanese soldier spoke to the person that you call "Captain Nanjo," it was from those words that you learned that the person was Captain Nanjo, is that correct?

A Yes, sir.

Q Was this person that you call Captain Nanjo wearing any glasses at that time?

A Yes, it seems that he had glasses.

Q Are you sure that he was wearing glasses?

A Yes, sir.

Q Do you know where the soldiers that surrounded you at the railroad track on that day were stationed?

A I did not know whether those soldiers were stationed in Boroboro or in Bacolod, because when we arrived on the spot they were already there.

Q Did you know any of the soldiers at that time?

A I don't know anybody.

Q So far as you know then, those soldiers could have been stationed anywhere in that vicinity, is that correct?

A I cannot tell about that because I don't know.

MR. SCHAUER: That is all.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: Anything from the Commission?

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL MacKINTOSH:

Q Did you know Captain Nanjo's name before he arrested your son?

A Only at that time of the capture of my son when I know the name of that Captain Nanjo.

Q Who first spoke the name "Captain Nanjo" in your presence?

A His soldiers.

BY COLONEL STICKNEY:

Q Do you know who was the commander of the Boroboro garrison in February, 1945?

A I did not know.

Q Did you know who was the garrison commander at Boroboro at any time during 1944?

A I did not know because I did not go to Boroboro.

COLONEL STICKNEY: No further questions. Anything further?

MR. SCHAUER: May I ask a few questions?

COLONEL STICKNEY: Yes.

FURTHER RE-CROSS-EXAMINATION

BY MR. SCHAUER:

Q Did you say that one of the soldiers referred to the person in charge of the troops as Captain Nanjo?

A Yes, sir.

Q Did he actually mention the name Captain Nanjo?

A He mentioned it.

Q Do you know the Japanese word for "Captain"?

A I could not understand.

Q How do you know then that the Japanese soldiers referred to him as Captain Nanjo?

A His name was mentioned as Captain Nanjo.

Q It was mentioned in Japanese, was it not?

A It seems to be like Japanese language they were talking about.

Q How do you know that the Japanese soldier that talked to the man that you say was "Captain Nanjo" said to this man, "What is your decision, Captain?" Not Captain Nanjo, just "Captain."

A Because they mentioned it.

Q Who mentioned it?

A His soldiers.

Q They mentioned it in Japanese, did they not?

A Yes, sir.

Q How do you know they mentioned it then when you do not understand Japanese?

A That was only the word that I know or I understand as Captain Nanjo.

Q Do you know that the word "Captain" in Japanese is Taii?

A I do not know.

Q And yet you say that you understood them to refer to this person in charge of the troops as Captain Nanjo?

A Because they mentioned it.

Q When you say you heard the word "Captain Nanjo" used, you do not know whether they were referring to one of the Japanese soldiers there at that time, or to someone else.

who was there present, do you?

A No, it was Captain Nanjo referred to who was having command of the troops.

Q How do you know that it was that person who was referred to by the Japanese soldiers as Captain Nanjo?

A Because he was the one at the head of the troops and he was the man who killed my son.

Q Isn't it true that you merely thought that that man was Captain Nanjo, because he was in charge of those troops?

A No, if they would not mention that name personally themselves I would not have known him.

Q You had been told previous to the 18th day of February, 1945, that a Captain Nanjo was in charge of the garrison of troops at Boroboro, were you not?

A It seems to me I had not heard of that name.

Q You had never heard of the name of Nanjo, or Captain Nanjo, before that day, is that right?

A I had heard of that name before that day, but I was not then sure whether he was that Nanjo, as he was called, who was heading the garrison troops located at Boroboro, because then I could not remember where, because by that time there was so much bombing around the vicinity of Bacoled.

Q Did someone tell you after the 18th day of February, 1945, that a Captain Nanjo was in charge of certain troops at Boroboro?

A Nobody told me any more.

MR. SCHAUER: I believe that is all.

COLONEL STICKNEY: Anything further?

MR. AITKEN: That is all.

COLONEL STICKNEY: There being nothing further, the witness is excused.

(Witness excused)

MR. AITKEN: With the Commission's consent, I would like to put one witness on out of order for a moment, for one question. I brought her here this morning. She has been told that they would send her home just as soon as transportation could be arranged. She is very anxious to get back. This is Elena Beter. I have the same question to clear up that one of the Commissioners attempted to clear up with a question to this witness, whether Captain Nanjo wore glasses customarily down there or not. I want to call her and ask her that one question, if that is all right with the Commission. I want to do it and let her go so that we won't have to keep her here.

COLONEL STICKNEY: I can see no objection. Is there one?

MR. SCHAUER: We have no objection, if the Commission please. However, we are waiting for word from one of our investigators about certain information we have requested, and contingent upon that reply we would like to have that witness remain here, because we might want to call her as a defense witness. Of course, whether we will or not is contingent upon hearing from our investigator, who is now in Negroes. I have no objection to this lady testifying at all. It is all right with me.

MR. AITKEN: We will hold her here as a witness, but it may be it will be an effort to keep her here.

MR. SCHAUER: We will assure you and the prosecution that we are not trying to delay the matter of her getting back, but we feel in the interest of the defendant here we want to be certain we are not going to need her as a witness before we say that we have no further interest in that witness.

As I say, we will know as soon as we hear from our investigator and we have sent them communications by plane and asked for a speedy reply.

ELENA S. BETER

a witness recalled for the prosecution, having previously been duly sworn, was examined and testified as follows:

MR. AITKEN: Let the record show that this witness has already been sworn. Will you remind her that she is proceeding under oath?

COLONEL STICKNEY: Is this witness going to speak in English?

MR. AITKEN: Yes. (To witness) Please remember that you are proceeding to testify under the oath already administered. I will ask one question.

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state whether or not Captain Nanjo customarily wore glasses?

A I beg your pardon?

Q Whether or not Captain Nanjo wore glasses?

A Yes, Captain Nanjo wore glasses.

Q And regularly?

A Regularly when he was on patrol. When he was on patrol there from hacienda to hacienda he usually wear his glasses.

MR. AITKEN: That is all.

COLONEL STICKNEY: Cross-examination?

CROSS-EXAMINATION

BY MR. SCHAUER:

Q Did you ever see him without glasses?

A Not at all.

Q Every time you saw him he was wearing glasses, is that right?

A Yes.

COLONEL STICKNEY: Any redirect examination?

MR. AITKEN: No redirect examination.

COLONEL STICKNEY: Any questions by the Commission?

(There were none) The witness is excused.

(Witness excused.)

GIL TANIQUE

a witness for the prosecution, being first duly sworn, was examined and testified as follows, through Interpreters Genoves and Belaong.

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Gil Tanique.

(At this point Mr. Ward rose to speak.)

MR. AITKEN: I will anticipate your question. I think you want to know if the accused speaks English. I will ask him.

MR. WARD: It may be easier if you will do it.

Q Do you talk English? Do you understand it?

(There was no answer.)

Q You would rather testify in Visayan tongue?

A Yes, sir.

MR. AITKEN: He may know a few words. I have not been able to talk to him. I have always done it through an interpreter.

Q How old are you?

A 43 years old.

Q What is your occupation?

A I worked at the Central as a laborer.

Q Where?

A Bacoled-Murcia Milling Company.

Q Where is your residence?

A Do you mean my place here in Manila?

Q No, your regular residence.

A In Bacoled-Murcia.

Q When you say Bacoled-Murcia, do you mean Bacoled-Murcia Milling Company?

A Yes.

Q What municipality is that in?

A Bacoled City.

Q Did you know about February 18, 1945, a person named Francisco Villaser and one named Dionisio Antera?

A Yes.

Q Do you know what happened to them at that time?

A Yes.

Q Will you tell us what happened to them, as far as you saw it?

A When I was on my way from Granada to my home, I met Primitiva Casabuena.

Q Where was your home at that time?

A At that time I lived at Hacienda Santa Romana.

Q What happened then, when you met Primitiva Casabuena?

A I saw her crying.

Q And what did you do?

A I asked her why she was crying.

Q And did you see Francisco Villaser and Dionisio Antera that day?

A Yes.

Q Were they alive or dead when you saw them?

A They were already dead.

Q Where were they?

A When I met Primitiva and she was crying, I asked her why she was crying. She answered me that she was crying because her son was captured by the Japanese. After that her son was killed by the Japanese. That was what Primitiva told me.

Q Did you visit the place where the son was killed?

A In the afternoon I went with her to the place where her son was killed.

Q And did you see her son there?

A We both saw her son already dead.

Q Did you see Dionisio Antera there?

A Yes, he was together with the son of Primitiva, already dead.

Q About what time was this?

A According to my estimate, because I did not have a watch at that time, around 6 o'clock in the afternoon.

Q Did you examine the bodies and observe the nature of the wounds that were on them?

A Yes.

Q What did you observe as to Francisco Villason?

A He had a wound on the chest, at the upper part of his nipple, and one on the stomach.

Q Could you tell from your observation what the nature of the wound was?

A I think those were wounds caused by a saber.

Q Did you examine Antera at the time?

A Yes.

Q And what did you see about him?

A He had the same wounds also on the chest and on the stomach.

Q Then what did you do after examining the bodies?

A We buried them.

Q You didn't see the persons who caused those wounds, did you?

A I saw.

Q Did you visit the place where the son was killed?

A In the afternoon I went with her to the place where her son was killed.

Q And did you see her son there?

A We both saw her son already dead.

Q Did you see Dionisio Antera there?

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A I think those were wounds caused by a saber.

Q Did you examine Antera at the time?

A Yes.

Q And what did you see about him?

A He had the same wounds also on the chest and on the stomach.

Q Then what did you do after examining the bodies?

A We buried them.

Q You didn't see the persons who caused those wounds, did you?

A I saw.

Q Tell us what you saw?

A While I was going home to Santa Romana, I met Primitiva Casabuena and she told me that her son was unfortunate for he was killed by the Japanese.

MR. SCHAUER: I move that be stricken. That is not responsive to the question. The question was what did he see. He is now relating what someone told him.

MR. AITKEN: That may go out for the time. I withdraw the question.

COLONEL STICKNEY: The question is withdrawn.

Q In response to a question --

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Witness reminded that he was proceeding under oath.)

Q Did you see anything personally connected with the killing of Francisco Villazor and Dionisio Antera -- only tell what you saw, if anything.

A As to the killing, I did not see. What I know is that Primitiva Casabuena told me so.

Q Did you help bury the bodies where you found them?

A Yes.

Q Can you describe to us where these bodies were, and where you buried them?

A Yes, I can.

Q Do so.

A The bodies were found within the vicinity of the hacienda owned by Fidel Henares. Just very near the railroad track leading to Hacienda Carmen.

Q Are you well acquainted with Francisco Villazor and Dionisio Antera?

A Yes.

MR. AITKEN: Now, at this point I would like to state to the Commission, that I intend to use this witness for Specification No. 5 and I think if it is satisfactory to the Commission, and to the defense, that I will turn him over for cross examination as to this specification. Let's finish him and before I proceed into a different specification, merely to keep the issues clear.

MR. WARD: That is satisfactory to the defense.

MR. AITKEN: "Is that satisfactory to the Commission?

COLONEL STICKNEY: Yes.

MR. AITKEN: Then you cross-examine him -- that is, with the understanding, of course, that I recall him for the other specification.

MR. SCHAUER: Will he be the next witness in order, that is, on the next specification?

MR. AITKEN: The next specification is No. 5, and while he would not logically be the first one as a witness, I will continue with him.

MR. WARD: After we finish with cross-examination on this count, he will be the first of your witnesses on No. 5.

MR. AITKEN: On No. 5, I will just continue with him as to Specification No. 5.

CROSS EXAMINATION

BY MR. WARD:

Q You state you were on your way from Granada to your home, which at that time was Santa Ramona, when you saw Primitiva Casabuena?

A Yes.

Q And you state that she told you that the Japanese had captured her son?

A Yes.

Q Where did you and she then go?

A We went back to Granada.

Q Did you stay with her the rest of the day?

A She proceeded to her home, while I remained at barrio

Granada.

Q When did you next see her?

A In the afternoon, in that same afternoon at the time when we were going to the place where the dead bodies were.

Q Was there anyone with her at that time?

A Do you mean at that time when we are going to the place where the two dead bodies were found?

Q Yes.

A At that time in the afternoon when we were going to the place where the two bodies were, we were only two.

Q What time of the day was that?

A According to my estimate, because I did not have a watch at the time, around 6 o'clock in the afternoon.

Q Is it correct you left Granada with Mrs. Casabuena at 6 o'clock?

A Yes.

Q Was it light at that time, was the sun still shining?

A It was still light.

Q How far is it from Granada to the place where the boys were killed?

A According to my estimate around a half a kilometer.

Q Did you carry implements with you?

A Yes, I took with me a spade.

Q What did you first do when you came to the spot where the boys were lying?

A The first thing we did when we arrived at the place where the two bodies were lying was to examine the bodies.

Q Regarding the son of Mrs. Casabuena, Francisco, will you describe his wound again -- you stated about the

breast and the stomach, is that correct?

A Yes.

Q How long or big was the wound in the boy's breast?

(To interpreter) Tell him to show it, indicate.

A (Indicating)

MR. WARD: The answer is about a one and one-half inch wound.

MR. AITKEN: Yes, one and one-half inches.

Q Was there any wound in the boy's back?

A There was a wound which I think was a continuation of the wound caused on the chest.

Q And where was that wound in the back? Indicate on me.

A That part on the right.

Q The first one.

MR. WARD: Counsel for the prosecution, will you please indicate?

A This is the first wound and the second.

MR. AITKEN: Just above the small of the back.

COLONEL STICKNEY: Will the reporter read that now?

THE REPORTER: "Q And where was that wound in the back -- indicate on me. A That part on the right. Q The first one? Counsel for the prosecution, will you please indicate? A This is the first wound and the second. Mr. Aitken: Just above the small of the back."

MR. AITKEN: The first one indicated on the right shoulder blade.

Q How big was the wound in the back by the right shoulder blade? Please indicate.

A (Indicating)

MR. WARD: About two inches.

MR. AITKEN: Two inches.

Q How big was the wound in the small of the back?

A (Indicating)

MR. WARD: Also about two inches.

Q This was on the boy, Francisco, is that not correct?

A Yes.

Q Now, as to the boy Antera, he also was wounded in the breast ---

MR. AITKEN: Dionisio.

Q And the stomach, is that not so?

A Yes.

Q How big was the wound in the boy's breast, please indicate.

A (Indicating)

MR. AITKEN: A couple of inches.

MR. WARD: Two inches.

Q How big was the wound in the boy's stomach?

A The same.

Q Did you examine Antera's back?

A No.

Q You stated on direct examination that this wound was caused by a saber, is that not so?

A Yes.

Q Which wound of those on Francisco do you believe was caused by a saber, or both?

A The two wounds.

Q Do you believe that the wounds on the boy, Antera,

were also caused by a saber?

A Yes, the same.

Q Have you ever seen a saber wound before?

A That was the first time I saw.

Q Have you ever seen a man wounded in that way, in that manner, before?

A Yes.

Q Did you see the man you are just talking about, killed?

A Yes.

Q And what did they use the time you are referring to, to kill the man with a similar wound?

A With a saber.

Q All right, will you describe the saber you are speaking of?

A That saber is as long as this (indicating).

MR. WARD: Indicating three feet?

MR. AITKEN: About three feet, yes.

Q Did this saber you are speaking of now, have a handle?

A Yes.

Q What type of a blade did this saber have?

A One edge only.

Q What rank of soldier used this weapon you are speaking of?

A The one who used that kind of a saber is an officer.

Q The time you are indicating, was it an officer that used the saber?

A That is what I have seen and known -- that a man or person who used that kind of a saber is an officer and is called a captain.

Q Do only captains carry sabers?

A During the Japanese time, the one who carried with him that kind of saber is called a captain.

Q This saber you are speaking of has a straight blade, does it not?

A (Gesturing) It is bending upward. The blade is bending upward to the point.

MR. AITKEN: Curved.

Q When you saw this man killed with a saber, what motion did the officer or captain use to kill the man? Indicate with this pencil (handing pencil to witness).

A Do you mean the way when they inflict the wound to Francisco Villazor?

Q No. You stated you saw a man killed with a saber. I want to know how the officer used the saber to kill that man.

A (Rising and gesturing) He took hold of the saber with two hands and in that position he hacked the man on the neck.

MR. WARD: May the record show that he used a swinging motion from the side.

MR. AITKEN: From the side and top.

MR. WARD: From the side and top.

Q In what position was the victim at that time when the officer swung this saber?

A The victim was standing in that position (rising).

MR. WARD: The position is upright.

MR. AITKEN: Standing up.

Q Have you ever seen another man killed with a saber?

A I have not seen somebody personally killed with a saber, but I had seen somebody killed with a saber because of the wounds.

Q Have you ever seen a man killed with a bayonet?

A Yes.

Q When did you see this man killed with a bayonet?

A During the war.

Q Was this bayonet fixed on the end of a rifle?

A Yes.

Q Was it a soldier that used this rifle?

A A Japanese soldier.

Q Was he an officer?

A I cannot tell, but what I know is that a saber was being used by an officer.

MR. WARD: May the last part of that go out as not responsive.

MR. AITKEN: What is the question, please.

(The reporter read the question.)

MR. AITKEN: The answer is responsive.

MR. WARD: I know it is something about a sword being used.

MR. AITKEN: Read it. It is absolutely responsive.

(The reporter read the answer.)

MR. AITKEN: "By an officer."

MR. WARD: I asked him if the man using the bayonet was an officer. Certainly the last part -- I withdraw the objection.

Q Will you describe the motions of the man using the bayonet with this pencil?

A (Demonstrating with pencil) Yes, this way.

Q Indicate how he did it.

A (Indicating) This way.

MR. WARD: May the record show he held the pencil straight forward, using both hands, as if grabbing an imaginary rifle, and lunged straight forward.

MR. AITKEN: Waist high.

MR. WARD: Waist high and lunged straight forward.

COLONEL STICKNEY: Will the reporter repeat the description?

(The reporter read the required portion of the record.)

MAJOR FRITZ: Demonstrate again.

MR. WARD: Will you demonstrate again, please, down here.

(The witness descended from the stand and again demonstrated.)

MR. AITKEN: I suppose the description should show that he advanced his left foot with the lunge.

MAJOR FRITZ: Absolutely.

Q Did you see the type of wound inflicted by this weapon?

A Yes.

Q What type of wound was it? Describe its length.

A It pierced through the back.

Q How big a wound was it?

A (Witness demonstrates by holding up two fingers.)

MR. WARD: May the record show about two and one-half inches.

MR. AITKEN: Yes, I guess so. What was that supposed to be? Will you read the question?

(The reporter read the question.)

Q Have you ever seen another man killed with a bayonet?

A No more.

Q How do you know that the wound in Francisco was caused by a saber and not a bayonet?

A Because at the time, as I have stated before, when I was on my way from Granada to Hacienda Santa Romana and I met Casabuena, she told me that her son was captured by the Japanese, and further she told me that I must hide myself, because they were very near. When I looked up in the direction where the Japanese were, I saw actually Captain Nanjo holding the saber in this position (demonstrating).

Q How far from the Japanese were you at that time?

COLONEL STICKNEY: Hold that just a moment. Was there a demonstration by the witness that went with that last answer that could be described?

MR. WARD: I don't know. I was not looking at the time.

INTERPRETER GENOVIS: There was.

COLONEL STICKNEY: Could you describe the movement that went with the words that he was using?

INTERPRETER GENOVIS: May I ask the witness again?

COLONEL STICKNEY: No. You were listening to his talk in Visayan and as you were listening you saw a certain movement, didn't you?

INTERPRETER GENOVIS: Yes, Sir.

COLONEL STICKNEY: Can you describe for the Commission what the movement was that went with the words, to put in the record?

INTERPRETER GENOVES: Holding the paper in the position up.

Q Will the witness show the position of Captain Nanjo at that time (handing pencil to the witness)?

A He was holding it this way.

COLONEL STICKNEY: Let us get that into the record; the description.

MR. WARD: Yes. The witness held the pencil in both hands, with the pencil over his right shoulder, in an upright position.

MR. AITKEN: Oblique, slanting.

MR. WARD: Oblique; slanting.

INTERPRETER GENOVES: Over his right shoulder and in an oblique position.

COLONEL STICKNEY: We have that.

MR. WARD: Left shoulder.

MR. AITKEN: Right shoulder. You held it over your own right shoulder.

MR. WARD: There is a correction here, right shoulder. I was correct the first time.

Q How far from Captain Nanjo were you at that time?

A From the place where I am sitting now to the door of that building, behind the barbed wire fence (pointing through the door of the courtroom) --

(At this point an off-the-record discussion ensued between the prosecutor and the defense counsel concerning the measurement of the distance.)

MR. WARD: I will stipulate it is 140 yards.

MR. AITKEN: I will stipulate 140 yards.

COLONEL STICKNEY: Is there more to the answer?

(Cont'd)--wherein a ladder is being leaned.

MR. WARD: And that distance is stipulated to be 140 yards.

COLONEL STICKNEY: I am a little confused here. This is the 4th Specification alleging the killing of two people, Antera and Villasor. There has been a departure from that and a description of other killings which the man has witnessed.

MR. WARD: That is correct.

COLONEL STICKNEY: Are we now back to the killing of Antera and Villasor?

MR. WARD: That is correct.

COLONEL STICKNEY: Does the interpreter understand that we are back now to the killing as described in Specification 4, which the previous witness talked about, killing of her son Francisco Villasor and his friend Dionisio Antera?

INTERPRETER GENOVES: Yes, it is understood. The defense is asking a question not of the killing of Francisco Villasor and the other fellow but he is asking of a different killing.

COLONEL STICKNEY: He has, from time to time, but this last question you were back there, were you not? On this last question?

MR. WARD: He stated he saw Captain Nanjo with his hands up like this (demonstration).

COLONEL STICKNEY: He may have seen Captain Nanjo on several occasions with bayonets and other things.

MR. WARD: That is correct, but he was with Casabuena.

COLONEL STICKNEY: I want to be sure where we are now. In your opinion, we are now back to Specification 4?

MR. WARD: Yes, we never departed therefrom.

COLONEL STICKNEY: You have departed.

MR. WARD: I mean --

MR. AITKEN: Yes, you have.

COLONEL STICKNEY: I will ask the interpreter:
Is that your understanding -- you are back in Specification 4
again?

INTERPRETER GENOVES: We are back to the time
when he saw actually Captain Nanjo holding the sword.

COLONEL STICKNEY: And you are back on the
4th Specification on the 18th day of February, the killing
of Francisco Villazor and Dionisio Antera, is that
correct?

INTERPRETER GENOVES: Yes.

COLONEL STICKNEY: And that is the question
that was asked of this witness?

INTERPRETER GENOVES: Yes, Sir.

COLONEL STICKNEY: This last question?

INTERPRETER GENOVES: Yes, Sir.

COLONEL STICKNEY: All right.

MR. AITKEN: I have an idea, if the Commission
please, that the witness has got himself on the 5th Spec-
ification, and in fairness to the witness that ought to be
cleared up.

MR. WARD: I will clear it up.

Q On the 18th of February, 1945, while you were
standing with the mother of Francisco, you saw Captain
Nanjo with a saber in his hands, over his right shoulder,
is that not correct?

A Yes.

Q And you were the distance as described before, from
your chair to the door with the ladder, is that not correct?

A Yes.

Q What did you see Captain Nanjo do when he had the sword up like this (indicating the sword is over my right shoulder).

A That is the only thing what I saw, because the two persons had already fallen.

Q You saw the two persons fall?

A I was not able to see.

Q The only time you saw Captain Nanjo was when he had the sword over his shoulder, is that correct?

A Yes.

Q Then you saw him for a split second only, is that correct?

A Yes, it was a split second, because I was afraid that they might see me.

Q But you immediately ran from sight, is that correct?

A Yes.

Q Had you seen Captain Nanjo before this time?

A You mean today?

Q No, before the 18th of February, 1945.

A I saw him while he was the captain at Borobero and the last time at that incident I have stated.

Q Was that the last time you saw Captain Nanjo, February 18, 1945?

A Yes.

Q A minute ago I asked you how you knew the wound on Francisco was made by a saber. Will you please tell me again?

A I have stated that before.

Q Answer me again.

A (Demonstrating) Yes. This length (holding up finger).

MR. AITKEN: A couple of inches.

Q And it is your opinion that that wound was made by the type of sword you described as a saber?

A Yes.

Q Did Mrs. Casabuena tell you that wound was made by a saber?

A No.

Q Yet the only saber wound you have seen was when a man's neck was nearly cut off, is that correct?

A Yes.

Q Who told you to tell us this wound was made by a saber?

MR. AITKEN: Just a moment. That is objected to as assuming that somebody told him to give that testimony.

MR. WARD: This is cross-examination. If somebody did tell him, we have a right to know it.

MR. AITKEN: Ask him if somebody did tell him, first.

MR. WARD: It is the same question.

MR. AITKEN: We can't assume a fact.

MR. WARD: "Who told you?" -- It is just a way of wording the question.

MR. AITKEN: That assumes somebody told him.

MR. WARD: "Who told you to tell us?"

MR. AITKEN: We can't assume something that is not in evidence at all. He can ask him if anybody told him -- that is all right -- but not to assume somebody told him.

MR. WARD: My question stands as it was worded.

MR. AITKEN: The objection stands.

COLONEL STICKNEY: The objection of the prosecution is sustained.

The Commission will adjourn and will reconvene at 0830 hours on the 11th of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 11 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

}
}
}
}
PUBLIC TRIAL

VOLUME V

Pages 305 TO 367

MANILA, P.I.

DATE: 11 October 1946

COPY NO: 1

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
11 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, Sig C

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2ND LT. HANUZO NITTA	)	Japanese
Tec 3 TAKEO SAITO	)	
FILOMENA ZOSA	)	Ilongo (Visayan)
PEDRO GENOVES	)	
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 11 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, defense counsel, Ward and Schauer are present, the accused and his personal interpreter are present, the official interpreter, Pedro Genoves, is present, and the reporter is present. Will you remind the witness that he is proceeding under oath.

(Interpreter Genoves reminded the witness that he was still under oath.)

MR. AITKEN: At the end of the last session I believe he was under cross-examination.

MR. WARD: That is correct.

GIL T. NIQUE

a witness for the prosecution, having been previously duly sworn, testified further as follows:

CROSS-EXAMINATION (Continued)

BY MR. WARD:

Q You stated yesterday that you were in the road about the distance from where you are now to the doorway, about 140 yards away; at that time you saw Captain Nanjo with his sword upraised, is that correct?

A Yes.

Q How many Japanese were with him at that time?

A I was not able to count.

Q About how many?

A I was not able to note, because immediately after I had seen them I hid.

Q Was there one, two, or more?

A More.

Q Five, ten?

A I think more than ten because I was not able to count.

Q Fifteen or twenty?

A I cannot tell how many.

Q More than ten ---

A But I can say there were more than ten.

Q Where were these ten soldiers?

MR. LITKEN: One moment, please, will you let the record show that the interpreter, Macario Belong, has just come in.

Q Where were these ten soldiers?

A They were together with Captain Nanjo.

Q Were they before him or behind him?

A Behind him.

Q Were all of them behind him?

A They were in a semi-circle behind Captain Nanjo.

Q Over which shoulder did you say Captain Nanjo had raised his sword?

A (Indicating)

MR. WARD: Indicating his right shoulder.

A This way above the right shoulder (indicating).

Q Was Captain Nanjo facing you or was his back towards you?

A (Indicating) In that position Captain Nanjo was facing towards me.

MR. WARD: Facing towards what?

INTERPRETER GENOVES: "Towards me."

Q Was there anyone between you and Captain Nanjo?

A I was not able to see whether there was somebody between Captain Nanjo and me, but all I saw was that I saw more Japanese behind him.

Q Was Captain Nanjo wearing military boots?

A Yes.

Q You saw them?

A Yes.

Q Were the men also wearing military boots?

A No, only the captain was wearing the boots.

Q What type boots were the men wearing?

A It was a pair of rubber boots extending from the foot up to the knee.

Q You saw these boots?

A Yes.

Q Did you see anyone on the ground?
A What do you mean by anything that I see?
Q Did you see any person on the ground?
A At that time while I was looking at them I did not see anyone.
Q When Captain Nanjo was facing you with his sword above his head, was he looking directly at you?
A He was not looking at me directly because he did not see me.
Q At whom was he looking?
A Maybe he was looking at the person he was stabbing.
Q This person was directly before him?
A I was not able to note, because I was at the far distance, whether the person he was stabbing was directly in front of him.
Q Was this person standing?
A Which person, the one he was stabbing?
Q That is correct.
A I was not able to see whether the man he was standing.
Q Was he kneeling?
A I cannot tell you because my sight was obstructed by the talahib.
MR. AITKEN: T-a-l-a-h-i-b. That is a grass.
Q Could you see the person's head, the victim's head?
A I could not say.
Q Could you see any part of the person he was stabbing?
A I cannot say.
Q Did you see any other Filipino civilians at that time?
A I saw, it was Primitiva Casabuena, the mother of

one of the victims.

Q Did you see either of the victims?

A Yes, one was Dionisio Antera.

Q Where was Antera?

A He was with Francisco Villasor.

Q Was Antera between you and Captain Nanjo?

A I was not able to see.

Q Was he between Captain Nanjo and the soldiers?

A I was not able to note, because they were quite far away from me and only what I know is that he fell.

Q Did he fall before or after Captain Nanjo raised his sword?

A I was not able to note. What I saw was that when I met Primitiva Casabuena when I looked around, I saw Captain Nanjo holding the sword above his right shoulder in an oblique position.

MR. MITCHELL: I would like to talk to the defense counsel a moment, if the court please, off the record.

(Off-record discussion between prosecution and defense counsel.)

COLONEL STICKNEY: Will the reporter insert in the record there was an off-the-record discussion between the prosecution and the defense counsel.

MR. MITCHELL: I was trying to clear up what I thought was a misconception. I still think it is, but that is all right, the counsel does not seem to want to accept what I thought was cooperation, but that is all right.

MR. WARD: I am perfectly willing to lay a foundation.

Q Was Antera standing when you saw Captain Nanjo raise his sword?

A I was not able to see.

Q You say he fell, did you see him fall?

A I did not see him fall but the fact that I was not able to see them, I think, that he had fallen.

MR. WARD: Will you read that answer back, please?

(Last answer read by reporter.)

Q Did you see Antera's body on the ground?

MR. AITKEN: I am going to object at this time now, because the witness has been asked that question ten or fifteen times and has already answered that he did not see those men at that time.

MR. WARD: If the counsel wishes to --- the last three questions ago he said he saw Antera again. He must have seen him some time.

MR. AITKEN: He did not say at any time in the last half hour whether he saw Antera.

MR. WARD: Will the reporter read about the last three questions back, please?

MR. AITKEN: From the time he was asked the question, "Did you see the victims," from the words used in translation I know that the witness had in mind, dead men, because he used the word "patay."

MR. WARD: At this time counsel is trying to explain what the witness is testifying. He is telling him what to testify in the future. I prefer to have the record read. He is testifying now and I don't want the witness at this time to understand what he is talking about.

COLONEL STICKNEY: I am afraid both prosecution and defense are talking rather fast, when you consider that the reporters must take this all down.

MR. AITKEN: I apologize to the reporters. I tried to think it was a misconception. I tried off record to see if I could not straighten counsel out, as I thought the testimony was -- believing he was working under a misapprehension. He rebuffed that, so I said, "Go ahead." Now the only recourse I have is to object right along, if that happens again.

MR. WARD: May the record be read back to show that counsel was under a misapprehension? Will that be satisfactory that the record be read back, approximately three questions back.

COLONEL STICKNEY: Will you lead the reporter to the place?

MR. WARD: The question was, "Could you see any part of the person he was stabbing?" and the answer was, "I could not see. I saw Antora."

(The reporter read the last four questions and answers.)

MR. AITKEN: That was the question where the word "patay" was used, and I assumed, and I think I am right, that the witness thought he was asked whether he saw the victims as dead men, not live men.

MR. WARD: At this time counsel is trying to do the job of the interpreter. If he wishes to act as an interpreter, he should do so.

COLONEL STICKNEY: I believe counsel should avoid going into the translating business.

MR. AITKEN: I agree with the Commission, but I can't make myself ignorant of what is being said and I don't want to interfere, unless there is necessity for interference. Nevertheless, I understand some of these words that are being used and I can't do less than understand them, if I understand them, and I can't discount what I know, and I know the witness at the time used the word "patay" and assumed that he meant at the time the dead man as the victim.

COLONEL STICKNEY: Your objection to this question is that it has already been answered, is that right?

MR. AITKEN: Many times.

COLONEL STICKNEY: Any reply from the defense?

MR. WARD: The question has not been answered -- the one I have asked. I wish to know where he saw Antera at that time. He stated already that he saw him. Where was he?

COLONEL STICKNEY: Does the reporter have the question?

(The reporter who had taken the question referred to was not in the courtroom at this time.)

MR. WARD: I can ask the question again, if that will be satisfactory.

COLONEL STICKNEY: Will you withdraw that question and start all over again?

MR. WARD: I withdraw the last question.

COLONEL STICKNEY: You can make the next question the same one, if you want to, but we will know what we are talking about.

Q You stated you saw Antera. He was not standing; he had fallen. Where on the ground did you see him?

A I saw his body on the ground when I and Primitiva Casabuena went to the place where they had been killed, at 6 o'clock in the afternoon.

Q You did not see him at the time Captain Nanjo's sword was raised, is that correct?

A I was not able to see, because I think he had already fallen.

Q You stated Captain Nanjo wore military boots?

A Yes.

Q Was there anyone on the ground by those boots?

A Do you mean the footprints of the boots on the ground?

MR. AITKEN: Will you read that question, please?

(The reporter read the question.)

Q Was any person on the ground beside those boots?

A When Primitiva and I went to the place, we saw dead bodies on the ground.

Q At the time you saw Captain Nanjo, did you see either Antera or Villaser on the ground beside Captain Nanjo's boots?

MR. AITKEN: I object to the question now, as having been asked and answered in various forms half a dozen times.

MR. WARD: The Commission knows what questions have been asked and answered. I won't even meet that objection.

COLONEL STICKNEY: Objection is not sustained.

A Yes.

Q Did you see both of them on the ground beside Captain Nanjo's boots at that time?

A I was not able to see who was on the ground, because my sight was obstructed by the grass.

Q Then how --

MR. AITKEN: Just a moment. I would like to ask the interpreter if he didn't also say, also because it was a long distance away?

COLONEL STICKNEY: Will the reporter read what the prosecutor is now saying?

(The reporter read the statement of Mr. Aitken.)

A (Continued) And because I was far away.

Q Was Captain Nanjo's sword in its sheath or was the blade exposed?

A It was not in its sheath.

Q How could you tell?

A Because while he was holding the sword up over his right shoulder in an oblique position, it was glittering.

Q Could you see the sword's sheath at Captain Nanjo's side?

A I was not able to note, but what I saw was the saber raised over his shoulder in an oblique position.

Q Could you see if there was any blood on the saber?

A I could not see. I was far.

Q How do you know Captain Nanjo was wearing military boots?

A I often saw him wearing boots.

Q You testified that at this time Captain Nanjo was wearing military boots, is that not so?

A Yes.

Q How did you know?

A Because Primitiva Casabuena told me that Captain Nanjo was wearing his boots.

Q You testified the soldiers were wearing boots that came up to approximately the knee. How could you tell that?

A Because I saw Captain Nanjo wearing boots.

Q You testified Captain Nanjo's men wore rubber boots from the foot to the knee -- that you saw them. Is that correct?

A Captain Nanjo wore those boots -- not his soldiers.

Q You stated that Captain Nanjo's soldiers wore rubber boots that came from the foot to the knee -- is that not so?

A That is not so.

Q When you met Primitiva Casabuena, was she on the road?

A Yes, she was on the road.

Q Was she in the middle of the road?

A Yes.

Q Is that road straight or does it curve?

A It curves.

Q Did the road curve in the direction of Captain Nanjo?

A Yes.

Q Are the sides of the road covered with shrubbery, undergrowth, foliage?

A Yes.

Q Are there also trees lining this road?

A Grasses, such as cogon, and talahib.

Q Are there any trees lining this road?

A No.

Q How tall are these grasses and talahib? Indicate.

A (Witness rises and indicates.)

MR. WARD: About three feet?

A From the ground up to this distance (indicating) is the height of the grasses.

MR. AITKEN: Let the record indicate about three feet.

COLONEL STICKNEY: Is that satisfactory?

MR. AITKEN: We just agreed on that.

Q How tall are these shrubs you spoke about? Please indicate.

A (Indicating) The talahib from the ground is as tall as this.

MR. WARD: May the record show about five feet.

Q These grasses and shrubbery were between you and the soldiers, were they not?

A Those were by the roadside.

Q The road curved toward Captain Nanjo, did it not?

A Yes.

Q Will you please indicate on this pad (handing pad of paper to witness) where Captain Nanjo was and where you were and describe the road.

A I do not know to draw.

Q Can you write?

A No.

Q You say you cannot draw at all?

A I do not know to draw.

Q I will indicate a curved line to show a road. I will show you as a cross-mark across (marking diagram on pad).

I wish you to indicate on this curved line the approximate position of the Japanese soldiers at that time.

MR. AITKEN: That is objected to on the ground that this representation is just a representation made by counsel. It has no relation whatever to the lines -- to the geographical lines that existed. He is asking a witness who can't read, write or draw to tell him something about a drawing which he is making himself. I object to the question.

MR. WARD: The witness testified it was a curved road -- the road curved toward Captain Nanjo. I am indicating a curved line and I believe a witness that can get on the stand and be competent to testify should certainly be competent to indicate the relative positions, or we should discount his complete testimony.

COLONEL STICKNEY: The objection is sustained.
The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Witness reminded that he is still under oath by Interpreter Genoves.)

Q From where you were on the road, what parts of the Japanese bodies could you see?

MR. AITKEN: I object, the question is indefinite unless you tell him when.

MR. WARD: All right.

Q When you saw Captain Nanjo's sword raised?

A I could see his body from his stomach up to his face.

Q How much of your person was visible to Captain Nanjo?

MR. AITKEN: That is objected to as calling for a conclusion. He doesn't know what Captain Nanjo could see of him, he might have been short-sighted.

MR. WARD: I withdraw the last question.

Q How much of your person should Captain Nanjo have seen?

A I don't know what part of the body he could see if he looked at me -- if he could have looked at me.

Q You were standing in the middle of the road, is that correct?

A I was standing by the side of the road.

Q Was Primitiva Casabuena running toward you when you first saw her?

A No, she was just walking toward me.

Q How far away from you was she when you first saw her?

A The first time I saw her she was at a distance of about five both arms' lengths.

MR. WARD: Agreed to be thirty feet.

Q Did she walk immediately to you?

A Yes.

Q Did she walk fast or slow?

A Slow.

Q Did you walk to meet her?

A Yes.

Q How far toward her did you walk?

A Do you mean the place where I was?

Q From the place where you first saw her, how far toward her did you walk?

A You mean when we were already facing each other?

Q That is right.

A (Witness gets off stand and indicates.) I think from the place where I saw her first to the place where we were facing each other, the distance is approximately two and a half of both arms' lengths.

MR. WARD: Fifteen feet?

MR. AITKEN: Yes.

Q You were walking home at this time along the road, were you not?

A Yes.

Q When you first saw Primitiva Casabuena was she coming around the curve in the road?

A Yes.

Q Is that the reason you could not see her until she was six arms' lengths away?

A My estimate was five, both arms' lengths, not six.

Q Is that the reason you could not see her until she was

five arms' lengths away?

A Yes.

Q Was her body hidden by the grass, is that what you mean?

A I did not know if she was around, was able to see her only at the distance of about five both-arms' lengths.

Q Did you say you were not able to see her until she was five arms' lengths away?

A Yes, because I did not know she was there, and only after she was at a distance of about five both-arms' lengths from me.

Q How wide is this road -- please indicate.

A (Indicating) From the distance where I am standing now to that wall.

MR. WARD: Eight feet?

MR. AITKEN: It is a short eight feet, but eight feet will do it.

Q Can cars, automobiles, travel over this road?

A Yes.

Q Is it paved?

A No, it is not paved.

Q Before you could see Primitiva Casabuena were the grasses and shrubbery hiding her person from you?

A The first time I saw her she was already in full view.

Q Which way did the road turn toward the Japanese?

A The road towards the Japanese was winding.

Q Before you met Primitiva Casabuena on the road from where were you coming?

A From Granada.

Q What were you doing in Granada at that time?

A I drunk tuba.

Q You what?

A I drunk tuba.

MR. AITKEN: Gathered or drunk?

INTERPRETER GENOVES: No, he drunk tuba.

Q Is tuba a Negroes liquor?

MR. AITKEN: A what, Negroes liqueur?

MR. WARD: I don't know.

MR. AITKEN: I can tell you what it is if you want to know.

MR. WARD: Counsel is an authority on this.

MR. AITKEN: I am not under oath on this unless the Commission wants me to tell them what tuba was. I was telling it privately to counsel.

MR. WARD: I would like to know.

MR. AITKEN: Tuba is the juice of the blossom of the coconut palm --

COLONEL STICKNEY: I don't see any reason why we should have a discussion from the prosecution not under oath. If you want to put him on as your own witness, we can take his evidence later on. But right now, we have had a great deal of testimony this morning which can boil down to a very minimum amount, and I would like to get on with the case.

MR. WARD: The next few questions, I believe will be important.

COLONEL STICKNEY: Let's get to the next questions then in a hurry.

MR. AITKEN: I apologise to the Commission.

COLONEL STICKNEY: You need not apologise to the Commission.

MR. AITKEN: I started to tell him privately, but not as a part of the record.

Q How long had you been drinking tuba that morning?

COLONEL STICKNEY: Did you get an answer to your last question yet?

MR. WARD: I believe he said he was drinking tuba juice.

COLONEL STICKNEY: What was your next question -- it was about liquor, did you get an answer?

MR. WARD: I will withdraw that question.

COLONEL STICKNEY: Very well, let's get going.

MR. WARD: Will the reporter read that last question please.

(Last question read by reporter.)

A Not a long time.

Q How long a time, three hours?

A You mean from the time that I drank the tuba and then walked away?

Q That is correct. What time in the morning did you first start drinking tuba?

A According to my estimate, around seven o'clock in the morning.

Q What time was it when you met Primitiva Casabuena on the road?

A I was not able to know what time it was, but that was after I had drunk tuba.

Q Was it afternoon or morning?

A Morning.

Q Was it near noon?

A A little earlier than noon-time.

Q You were feeling pretty happy then, were you not?

A I was not happy because while I was walking I was entertaining a fear of the Japanese.

MR. WARD: Will you read that answer back, please?

(Last answer read by reporter.)

Q Before you started to walk, you were pretty happy, were you not?

A No, I was not happy because as I was starting to walk I entertained a fear of the Japanese, that if ever they saw me they would kill me.

Q Were you carrying any sort of a weapon, knife or gun?

A No.

Q Were you wearing some sort of a uniform?

A I was dressed in sack.

MR. AITKEN: Sack, sack.

COLONEL STICKNEY: What was that word?

MR. AITKEN: Sack.

Q Is that the type of uniform worn by the guerrillas -- sack?

A I don't know whether it was the uniform of the guerrillas, but because what I could afford was only to buy sack for my clothing.

Q Were the Japanese looking for you?

MR. AITKEN: I object to that as immaterial, incompetent. I think he has gone way beyond the bounds of legitimate cross-examination.

MR. WARD: Right in the middle of the bounds. He saw some Japanese and his actions at that time were dependent on the way he felt toward those Japanese. He is stating he saw them and he did something. I am leading up to that and what he believed at the time he saw these Japanese. It is very material to what he is testifying.

COLONEL STICKNEY: I have the wrong picture. I thought you had him on his way from a tuba-drinking contest.

MR. WARD: Yes, and he saw Primitiva Casabuena in the road.

COLONEL STICKNEY: I didn't know you got that far.

MR. WARD: I am leading up to that. He had been drinking tuba all morning until just slightly before noon. Now, he saw Primitiva on the road. He is fearful of the Japanese, for some reason. It was not because he was wearing some clothing or some weapon. I think it is very material, because it is related to how he acted thereafter. He did not walk up to the Japanese, he hid.

COLONEL STICKNEY: The objection is not sustained. The question will be answered.

(The reporter read the question.)

A I did not know whether they were looking for me.

Q Why were you afraid they might find you?

A I was afraid they might find me, because whenever they find civilians they capture them and kill.

Q Every time you saw a Japanese you hid, is that correct?

A In places where people do not frequent, whenever the Japanese find you there they will kill you, but in station they do not kill people when they find them there. That is why I am not afraid when I see the Japanese in station, but in places where people do not frequent I am afraid of the Japanese.

Q You were not supposed to be on the road to your home at that time, is that correct?

MR. AITKEN: That is objected to as calling for some conclusion from the witness.

MR. WARD: He states he knows.

MR. AITKEN: He was not supposed by whom to be on the road? How does he know?

MR. WARD: I withdraw the last question.

Q Did the Japanese capture all Filipinos that were on the road to Granada? Is that correct?

MR. AITKEN: That is objected to as asking the witness to answer something he can't possibly do. How does he know?

MR. WARD: He knew enough to be afraid. He hid. He states that certain places are unusual, where Filipinos usually are not, and for some reason he believes this road from Granada to his home is a restricted area -- out of bounds.

COLONEL STICKNEY: The objection is sustained.

Q When you first saw Primitiva Casabuena, did you speak to her first or did she speak to you first?

A I was the first to speak.

Q What did you say to her?

A I asked her, "Why are you crying?".

Q What did she answer?

A She answered, "Oh, Gil, my son is unfortunate. He is captured by the Japanese under the command of Captain Nanjo with Dionisio Antera and they are dead."

Q What did you answer back?

A I did not answer her, but when I looked up I saw Captain Nanjo.

Q Did you know it was Captain Nanjo because Primitiva Casabuena said so?

A I know because I know Captain Nanjo personally and I saw him also.

Q The day before yesterday, when you were brought to this courtroom, you got off the truck --

COLONEL STICKNEY: I would like to ask if this man was brought to this courtroom the day before yesterday?

MR. WARD: I withdraw the question.

Q Were you brought to this courtroom the day before yesterday?

COLONEL STICKNEY: The reason I asked that question is because I assume you mean to a meeting of the Court. I know he was not because I was here.

MR. WARD: He was brought to this vicinity. I withdraw the last question.

Q Were you brought to the High Commissioner's Residence -- that is, this area -- the day before yesterday?

A Yes.

Q Did you get off the truck over by the big building (indicating the High Commissioner's Residence)?

A Yes.

Q Did you see a big guard -- a tall guard with an M.P. hat -- such as that gentleman behind you -- leading four Japanese towards this building?

A Yes.

Q Were they not these four Japanese (indicating the defendant, two other Japanese and the interpreter)?

A Yes.

Q Did you not point out to Primitiva Casabuena and the other witnesses the defendant, Nanjo?

A No. I know personally Captain Nanjo. He is the one (pointing).

MR. AITKEN: Indicating the accused.

Q Did you point Captain Nanjo out to Primitiva Casabuena?

COLONEL STICKNEY: Just a moment. I want the record to be clear at this point. The prosecutor said, "Indicating the accused." I don't know whether he indicated the accused or not.

MR. WARD: I am willing to stipulate that he indicated the accused.

COLONEL STICKNEY: Very well.

MR. WARD: Will you read the last question, please?
(The reporter read the question.)

A No.

Q Did you see anyone point Nanjo out to the group of witnesses whom you were with at that time?

A No, I personally knew Captain Nanjo, since before.

Q What did you say to the other witnesses when you saw Captain Nanjo walking towards this courtroom?

A I did not say anything.

Q Did anyone else mention Captain Nanjo at that time?

A Yes, because they know also Captain Nanjo.

Q Which one of the witnesses pointed Captain Nanjo out?

MR. AITKEN: Just a moment. I object to that on the ground it assumes a fact that one of the witnesses pointed him out. There has been no statement to that effect.

MR. WARD: This is cross-examination. You are entitled to ask leading questions. You are entitled to assume things not facts.

MR. AITKEN: You are not entitled to assume facts not in evidence.

MR. WARD: In any type of cross-examination you can say, "This happened, did it not?" or "Which one did it?". You don't have to lead a preliminary question, or "Was it done? Who did it?" Otherwise, in any type of cross-examination the witness would be able to get the jump on you.

MR. AITKEN: You can say, "This happened, did it not?" It is not assuming anything at all.

COLONEL STICKNEY: The objection is sustained.

Q One of the witnesses against Captain Nanjo at that time pointed Captain Nanjo out to the others, did he not?

MR. AITKEN: That is objected to, the same as the last time. It assumes that one witness pointed him out.

MR. WARD: "Did he not?" I am asking him.

COLONEL STICKNEY: The objection is not sustained.

A No.

Q Did they point him out the day before?

A I do not know.

Q When you saw Captain Nanjo the day before yesterday, you said someone mentioned his name and that you all knew him. Which one mentioned his name?

A I, myself, because I knew him.

Q What did you say?

A I said, "There is Capt Nanjo."

Q When you saw Primitiva on the road, what did you then next do?

A We went back to Granada.

Q Where in Granada did you then go?

A Inside the barrio.

Q Did you go to sleep that afternoon?

A I did not sleep.

Q What did you do?

A I walked around the barrio and drank tuba.

Q Did you drink tuba until you saw Primitiva Casabuena that afternoon?

A Yes.

Q When you saw Captain Nanjo with the sword over his shoulder, did you see him swing it down?

A No.

Q As to the soldiers in a semi-circle behind Captain Nanjo, did you see any rifles with bayonets attached?

A I was not able to note.

Q Did you see any rifles?

A I was not able to see any rifles. What I saw was Captain Nanjo with a saber. But whenever the Japanese soldiers were on patrol, they had with them their guns or rifles.

Q Had you ever seen Captain Nanjo on patrol before?

A Yes.

Q Did you know any of the soldiers in his patrol?

A Yes.

Q Were any of the men in the semi-circle behind Captain Nanjo men of that patrol that you knew?

A Yes.

Q Did you recognize these men?

A Yes, it was Nakatani.

Q Corporal Nakatani?

A I did not know his rank.

Q What did Corporal Nakatani do?

A Nothing.

Q Is it not a fact that Corporal Nakatani had the sword raised over his head?

A No.

Q Is it not a fact that Corporal Nakatani often led these Japanese patrols?

A No, it was Captain Nanjo that led the patrol.

Q But you are sure Corporal Nakatani was one of the men behind him, is that not so?

A Yes.

Q Is it not a fact that Corporal Nakatani was killed in 1944?

A I do not know whether he was killed, but at that time I saw him.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will the interpreter please remind the witness that he is proceeding under oath?

(Interpreter Belalong reminded witness that he was still under oath.)

Q You stated on direct examination yesterday that when you met Primitiva Casabuena you saw nothing as to the Japanese?

COLONEL STICKNEY: Is that a question?

MR. WARD: Yes, "did you not"? Will the reporter read that back, please?

THE REPORTER: "You stated on direct examination yesterday that when you met Primitiva Casabuena you saw nothing as to the Japanese, did you not?"

A I saw Captain Nanjo when I met Primitiva, because when I looked up I saw Captain Nanjo in the direction in front of me.

Q You did not see with your own eyes the killing of either Antero or Villasor, is that correct?

A No.

Q Neither did you see Antero or Villasor until you came back that evening with Primitiva Casabuena, is that not correct?

A Until the time we came back to the place, I was not able to see that they were already killed.

Q Then you saw nothing of the killing of either of these two boys?

A I did not see the killing, but when we went back to the place we saw them already dead.

Q All you did see was Captain Nanjo with his sword up, right?

A Yes.

Q And you saw Corporal Nakatani, is that correct?

A I saw Nakatani behind Captain Nanjo.

Q Was Corporal Nakatani in the center of this semi-circle of Japanese?

A He was behind Captain Nanjo.

INTERPRETER GEORGE: Correction. "He was near Captain Nanjo."

Q You are as sure that Corporal Nakatani was there, as you are sure that Captain Nanjo was there, is that not correct?

A Yes.

MR. WARD: That is all.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No redirect.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q The day before yesterday when you saw the four Japanese who are now in the courtroom passing the corner of the main building over here when you said "There is Captain Nanjo" to whom were you speaking?

A The driver of the truck.

Q And anyone else?

A No more.

Q Who was the driver of the truck, was that a Filipino?

A Yes.

Q Do you know him?

A I know his face, Sir, but I do not know his name.

Q Is he a soldier?

A No.

Q Did you point out to him which one of the four Japanese was Captain Nanjo?

A Yes.

Q On the 18th of February 1945 how well acquainted were you with Francisco Villasor?

A We had been friends ever since before the war.

Q And at that time how well did you know Dionisio Antera?

A Also, we know each other a long time ago.

Q What do you mean by "long time ago"?

A That was before the war, ever since we were still young.

Q Now, just prior to the 18th of February 1945, how often did you see Francisco Villasor?

A We often see each other.

Q How often?

A Several times, Sir.

Q Several times a day, or several times a month, or several times a year?

A During wartime we seldom see our friends, maybe once a month, because everybody had to hide from the Japanese.

Q You saw him then about once a month, did you?

A Yes.

Q And what about Dionisio Antera?

A Dionisio Antera lived very near my house so that we often met during the week.

Q You saw him more than once every week, then, is that right?

A I saw him more than once a week, because when there was a market day in Hacienda San Francisco, he was there to sell some fish and there were three market days in San Francisco in a week.

Q What was his occupation?

A A fish vendor.

Q To your knowledge did he belong to any military organization?

A No.

Q What did Francisco Villaser do?

A He was working on their own land planting casava, sweet potatoes and some vegetables.

Q To your knowledge, did he belong to any military organization?

A No.

BY COLONEL MACKINTOSH:

Q How could you tell that the man you described as having a sword over his shoulder was Captain Nanjo?

A Because I know Captain Nanjo.

Q Could you recognize his features at a distance of 140 yards--from here to the doorway of the building inside the fence?

A Yes, Sir, I could.

Q When did you see Captain Nanjo wearing boots?

A Since the time he became the captain of the Boroboro garrison he was already wearing boots.

Q Did his soldiers wear boots?

A No.

Q What kind of shoes did they wear?

A Of what, Sir.

INTERPRETER GENOVES: He is asking of whom?

Q What kind of shoes did Captain Nanjo's soldiers wear?

A Some of them used rubber shoes with open toes, and others used also leather shoes.

Q When you saw Captain Nanjo with the sword over his shoulder, was he dressed in the same manner as the Japanese soldiers.

A Yes, he wore khaki uniform.

Q Is tuba an intoxicating beverage?

A Yes, sir.

Q In your opinion, were you intoxicated when you met Primitiva Casabuena on the road?

A I was not drunk.

Q The day before yesterday, when you said to the truck driver, "There is Captain Nango," did the other witnesses in the truck hear you say that?

A No, I was together with that driver.

BY COLONEL STICKNEY:

Q In what language did you speak?

A In Visayan, sir.

Q Was the truck driver a Visayan?

A He is a Tagalog, but he has accustomed to hearing us in Visayan dialect.

BY MAJOR FRITZ:

Q During January and February of 1945 was there any guerrilla or USAFFE activity in or near Bacolod?

A I did not know.

Q In Boroboro or Concepcion?

A They could not do anything, because there were Japanese stationed in Boroboro.

MR. WARD: Will the reporter read that answer back?

(The reporter read the answer.)

Q Did you see or hear or know of any demolition or destruction of Japanese boats in Bacolod at that time?

A Yes.

Q State what you saw or heard.

A I did not see, but I heard that when the Americans land-

ing the Japanese burned houses before they left. That was while I was at the Bacolod-Murcia Milling Company.

Q Before the Americans landed, did you hear or see the destruction of any Japanese boats at the port?

A Yes.

Q State what you saw or heard.

A Before the landing of the Americans the houses where they resided had placed something --

MR. SCHAUER: That is not responsive. I think I will move to strike that.

MAJOR FRITZ: It is part of what I want to know. My next question is going to ask him to explain what he means.

MR. SCHAUER: I will withdraw the motion.

A (Continued) -- had placed something, burned them and left away.

Q What was placed in the houses, and who placed it there?

A I did not see it personally. That was what I heard from other civilians.

Q The things you heard, were you told what was placed in the houses and who placed it there?

A The Japanese were the ones who placed these things here. The things placed were palay rice which they took from the civilians.

Q In January and February 1945 did you see or hear or know of the demolition or destruction of the airfield at Bacolod?

A Yes.

Q State what you saw or heard.

A I saw the landing at Bacolod destroyed through bombing by the Americans, and I heard only the bombing of the Japanese garrison in Bacolod.

Q Were these bombs dropped by airplanes?

A It came from the airplanes.

Q Prior to the time the airstrip was bombed from the air, was any part of it destroyed in another way?

A Destruction made besides bombing?

Q Before the bombing from the air?

A Yes.

Q What destruction was it and how did it happen?

A Houses in the city of Bacolod abandoned by civilians, the Japanese destroyed them and used the materials for their fuel.

MR. WARD: I move that answer be stricken as not responsive.

COLONEL STICKNEY: This last answer being not responsive will be stricken from the record.

Q I am speaking now of nothing but the airstrip. Before it was bombed from the air by the Americans, was it destroyed in any way? If so, by whom?

A I did not know.

Q During January and February of 1945, did you see or hear of the destruction of Japanese motor vehicles in or near Bacolod?

A Yes.

Q State what you saw.

A The Japanese burned automobiles and trucks on their way.

Q Are you speaking now after the time the Americans landed?

A The Americans had not landed yet.

Q Which trucks, which motor vehicles were the Japanese burning?

A I did not know who owned them, but what I saw that they were burning.

Q I speak of the Japanese military vehicles. During January and February of 1945 did you see any of them destroyed?

A Yes.

Q State what you saw.

A I saw Japanese war tanks at central Bacolod, which they burned.

Q Who burned the war tanks?

A The Japanese.

Q Did you see the guerrillas or the USAFFE destroy any vehicles in or near Bacolod in January or February of 1945?

A No.

Q Did they do any damage to the air strip?

MR. AITKEN: Did the guerrillas?

Q The guerrillas or the USAFFE.

A I do not know.

Q Approximately how many guerrillas were in or near Bacolod, Boroboro, Concepcion area?

A I do not know.

Q Do you know anyone by the name of Hawley?

A No.

Q Do you know anyone by the name of Gimperlee?

A No.

Q Were you ever in the army?

A No, sir.

Q Did you ever fire a rifle?

A In 1927 I was in the Philippine Constabulary, so I was able to hold a rifle.

Q Have you ever received training with a bayonet?

A Before I started.

COLONEL STICKNEY: The Commission will recess and reconvene at 1300 hours this day.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. FIFKIN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, and the defendant and his personal interpreter, Interpreter Belong, and the reporter, are all present in court. The interpreter, Pedro Genoves, is absent.

Will you please remind the witness he is still under oath?

(Interpreter Belong reminded witness that he was still under oath.)

COLONEL STICKNEY: The questions are now by the Commission, as I remember. I would like to ask, if I am right, the defense counsel and the prosecutor has stipulated that the witness from his position on the stand by pointing, properly identified the accused.

MR. WARD: Yes, sir.

COLONEL STICKNEY: I have no further questions. Anything further from the defense?

MR. WARD: Yes.

FURTHER CROSS EXAMINATION

BY MR. WARD:

Q You stated that you were a member of the constabulary in 1927, is that correct?

A Yes, sir.

Q At that time you were trained in a rifle, were you not?

A When I was with the constabulary, yes, I trained with a rifle.

Q Were you also trained in the use of a bayonet?

A Yes, sir.

Q Have you ever used a bayonet on a person, an individual?

A No, sir.

Q You are familiar with bayonet wounds, however, are you not?

A Yes, sir.

Q Would you say that the wounds on the bodies of the two boys were not bayonet wounds?

A Yes, sir.

Q Could they have been made by a bayonet?

A No, because I saw a saber that was being raised, so I presume that the wounds were caused by the saber.

Q But you did not see the saber lowered, is that correct?

A No, because at that time when I saw the saber I immediately hid under the brush.

Q You say you saw the saber raised?

A I saw the saber that was being raised over the shoulder.

Q Did you hear any command at that time?

A I could not hear because it was a far distance from me.

Q Have you ever held a rifle since 1927 when you were in the constabulary?

MR. AITKEN: Objected to as --

A No, sir.

MR. AITKEN: All right, he has already answered. I withdraw the objection.

COLONEL STICKNEY: I think the objections had better come before the answer so that there may be a ruling.

MR. AITKEN: I was a little slow in getting it out -- it makes no difference.

COLONEL STICKNEY: I understand you withdrew it, but if we are going to have objections we had better have objections and rulings.

C. You stated you did not know how many guerrillas were in the area of Bacolod, Boroboro, and Concepcion, is that not so?

COLONEL STICKNEY: Now, there is another example. Are you objecting now?

MR. AITKEN: I was going to, but I did not.

COLONEL STICKNEY: Well, for the second time in succession, if you are going to object, get your objection out before you hear an answer and know whether or not you like the answer.

MR. AITKEN: I am sorry, but I did not want to interfere with the interpretation.

COLONEL STICKNEY: I want you to interrupt him. You will save the time that he uses asking the question and if you get a favorable answer before your objection, there is no objection. As soon as a question is asked in English, the objection should come. The bad feature of objecting after an answer is given is that if the answer is unfavorable and the ruling is against, or is with the objector, we have got to erase from our minds

something that we should never have gotten into our minds.

MR. WARD: Is there an objection now; I do not know if there is one pending.

MR. AITKEN: No, there is no objection.

COLONEL STICKNEY: Was there an answer yet?

INTERPRETER BELAONG: There was no answer yet.

A Yes, I said I did not know.

Q Was there any guerrilla activity in that vicinity during January and February 1945?

MR. AITKEN: Objected to as immaterial.

MR. WARD: It has already been asked by the Commission, and it has had numerous responses. At that time Mr. Aitken did not object. If he does not raise his original objection, he certainly cannot object now.

MR. AITKEN: The reason I did not object was that I felt that the Commissioner who was asking those questions was eliciting information for some reason of his own that might not have been connected with the case, and I had no objection to eliciting information of that kind if he cared to take the opportunity to do so. However, I don't think that is material to the case now and protest that the witness has been cross-examined along those lines, and it is just repetition, that is all.

MR. WARD: At this time I still maintain the objection is not raised at the original ---

MR. AITKEN: I will withdraw the objection, because I don't want it to appear that I would not object to a Commissioner asking a question and would to the defense counsel asking a question. If you want to go over all that

ground again it is immaterial to me. I can stay here the next two weeks.

MR. WARD: Is the objection withdrawn then?

MR. AITKEN: The objection is withdrawn.

MR. WARD: Will the reporter read the last question, please?

(Last question read by reporter.)

A No, sir, there was none that I know of.

MR. WARD: What was that whole answer again?

A There was none that I know of.

Q Calling your attention to the morning you were speaking to the driver of the truck over by the High Commissioner's residence, where were you in relation to that truck when you pointed out the defendant, Nanjo?

A I was on the truck.

Q You were on the truck?

A Yes, sir.

Q Seated by the driver or back in the body of the truck?

A I was beside the chauffeur.

Q Had you just arrived by the Commissioner's residence?

A Yes, sir.

Q Had any of the other witnesses descended from the truck as yet?

A Others had already gone down.

Q All of them?

A All of them except myself.

Q Did they descend from the rear of the truck, or past the front seat?

A They descended by the rear of the truck.

Q Where were the other people in relation to yourself and the driver?

A They already went up to the Commissioner's building inside the room for the witnesses.

Q Then none of the others were by the truck when you pointed out the defendant, is that correct?

A We were only two with the chauffeur.

Q What other two were with you?

A We were only two, I mean I and the chauffeur.

(Interpreter Genoves entered the courtroom and took his assigned seat.)

Q When you first get here in the morning, do you not come immediately over to this vicinity? (Indicating Courtroom No. 3.)

MR. AITKEN: Just a minute, is that a question or a statement? I object to it.

MR. WARD: I said, "Do you not."

MR. AITKEN: No objection.

A I did not come here direct or in this vicinity but I went together with other witnesses.

Q You all went together into the Witnesses' Room, is that correct?

A Yes, sir.

Q In other words, the other witnesses were not in that room before you got there, is that right?

MR. WARD: I withdraw that.

COLONEL STICKNEY: Just a minute, please, I am a little confused. I believe you are talking about mornings, but you seem to have some particular morning in mind.

MR. WARD: That is right. The day before yesterday when this gentlemen pointed out the defendant to all of the other witnesses.

COLONEL STICKNEY: That happened over there?

MR. WARD: That happened over at the Residence.

COLONEL STICKNEY: You are still talking about that same one?

MR. WARD: That is correct.

COLONEL STICKNEY: I thought you said "morning," a minute ago?

MR. WARD: That was in relation to the ordinary procedure how the witnesses depart in the morning -- they usually come over here to wait in the Witness Room.

COLONEL STICKNEY: Will the reporter read that last question?

MR. WARD: I have just withdrawn it.

Q And did you not enter the Witness Room that morning with all of the other witnesses against the defendant, Nanjo?

A We were together.

Q And were you not talking about the defendant, Nanjo, at that time?

A I did not say anything there inside the room.

Q Going to the room did you not, you and other witnesses, talk about Captain Nanjo?

A No.

Q When you pointed out Captain Nanjo did any of the other witnesses say anything?

A There was nothing said because I was only talking with the chauffeur.

Q Did you see the other witnesses leave the truck?

A I saw them get down.

Q Where was Captain Nanjo then?

A He was walking with the two guards.

Q Was it that time you pointed him out?

A It was at that time when I pointed to the chauffeur about Captain Nanjo.

INTERPRETER BELMONG: Take that out, please.

"It was at that time when I pointed to the chauffeur that that was Captain Nanjo."

Q And at that time the other witnesses were just leaving the truck, is that not right?

A They had already gotten off the truck.

Q Had they entered the little hallway in the Commissioner's Residence?

A They were in the Witness Room.

Q When did you catch up with the witnesses, other witnesses against Captain Nanjo?

A It was Wednesday morning.

Q Was my question translatable? Is there a phrase similar to "catch up" in Visayan?

A What I mean was the date when I came here.

Q You stated you entered the Witness Room together with the other witnesses against Captain Nanjo the morning you pointed him out, is that not correct?

A Yes, sir.

Q Did you go with the other witnesses down the little hall to the room -- to the Witness Room?

A He was behind.

Q How far behind?

A They were already in the Witness Room while I was still in the truck.

Q Did you go to the little Witness Room that morning?

A Yes, sir.

Q Did you go to the little Witness Room this morning?

A No, sir.

Q Did you go to the little Witness Room yesterday morning?

A No.

Q That was the only morning you went to the little Witness Room, is that correct?

A Yes, sir.

Q Is it not a fact that none of the witnesses went to the Witness Room that morning, but that they came directly to Court Room 3 (indicating this vicinity)?

A We went there direct to have our names registered with a woman there.

Q Was that the first morning you came to the High Commissioner's Residence?

A Yes, sir.

Q Were you not in Manila Monday morning?

A Yes, sir.

Q Did you not come to the High Commissioner's Monday morning?

A No, sir.

BY MR. SCHAUER:

Q What day was it that you met Primitiva Casabuena on the road from Presentacion to Matab-ang?

MR. AITKEN: I object to this method of cross-examining the witness, by means of relays of counsel. We never will get through with the case, if one counsel and then the other is permitted to do it. It is unusual practice in any court. One counsel does the job and if he needs help from another counsel he does it with other witnesses. But to have two counsels come in and relay on cross-examination is rather unheard of, an unusual procedure, and especially if it is going to be repetitious such as this is. I think it is entirely within the discretion of the Commission, of course, the arrangement of witnesses and method of examination by counsel, but I don't think that is a practice that should be established.

MR. WARD: This is merely a method to save time. If you wish to have Mr. Schauer give me the questions that he wishes to have asked, then have me ask them, that would be a waste of time. This will facilitate the court.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

A I could not remember.

Q Could it have been the 5th of March, 1945?
A Do you mean when I met Primitiva Casabuena?
Q Yes.
A We met on the 18th of February.
Q How do you know it was the 18th of February?
A Because I counted the days of that month from the 1st up to that date.
Q Did you write anything down, make any mark, or do anything so that you would remember that it happened on the 18th of February, 1945?
A I did not write anything, but I counted from the first day of that month up to that day of the incident.
Q What month of the year is February?
A February is the second month of the year.
Q What is the first month?
A January.
Q How many days does February usually have?
A Twenty-eight.
Q Now, you are sure this happened on the 18th day of February, 1945, is that right?
A Yes.
Q Isn't it a fact that the reason you testified it happened on the 18th of February, 1945, was because someone told you that was the date?
A I remember that date because my wife gave birth on the 18th of February.
Q Is that why you had been drinking tuba?

MR. AITKEN: That is objected to as just facetiousness. The reason for drinking tuba can't be

very material in this case.

COLONEL STICKNEY: Objection sustained.

Q Now you say the reason you hadn't seen Villasor oftener than about once a month around that time was because you had to hide from the Japanese, that is correct, is it not?

A Yes, sir.

Q Is it not true that the reason you had to hide from the Japanese was that you were helping the guerrillas or the USAFFE?

A I didn't help them.

Q How many children do you have, incidentally?

A Three.

Q When was the last one born?

A On February 18, 1945.

Q Is it a boy or girl?

A It is a girl.

Q How old is she?

A I cannot tell, because she is small and sickly and she cannot even stand yet.

MR. SCHAUER: Will you repeat that question?

(The reporter read the question.)

COLONEL STICKNEY: Could I ask the reason for that question?

MR. SCHAUER: I want to find out whether this witness really understands time, whether he knows what he is talking about when he picks out a specific date and tells us that such and such happened on that particular date. He has testified he remembers the 18th of February, 1945, because a child -- he became the father of a child on that particular day. I would like to know some information

about that child -- how old the child is, whether he can tell how old that child is. He testified the child was born on this particular day.

COLONEL STICKNEY: I fail to see what you are going to get out of this particular question.

MR. WARD: That would only show the relevancy as to his testimony. He is testifying as to a certain date. His powers of association of fact are based upon this particular fact, and we certainly have a right to delve into any such fact that gives him the right to testify on what happened on such and such a date. It is very relevant.

MR. AITKEN: I would like to say with reference to what, that dates of births and deaths are monuments in one's memory but they do not indicate, because you know a date, that you can calculate time, and if a witness is ignorant, months and days mean little. A date means much. The question is immaterial, irrelevant.

MR. SCHAUER: It seems to me he can calculate to a certain extent. He knows the relative position of months in a year, how many days in February ---

MR. AITKEN: The state of his education is not material to this case. It would certainly would be relevant to show whether or not he knows of his own knowledge a certain event happened on a certain day, as distinguished from another day.

MR. SCHAUER: He has just stated he knew that date.

COLONEL STICKNEY: Are you making an objection?

MR. AITKEN: I have objected.

COLONEL STICKNEY: The objection is sustained.

MR. SCHAUER: That is all.

COLONEL STICKNEY: Anything from the prosecution?

MR. AITKEN: Nothing on this specification.

COLONEL STICKNEY: Is it expected that we will go right into the next specification at this time?

MR. AITKEN: I imagine, as the witness is here on the stand, we might just as well do it.

COLONEL STICKNEY: Very well. That was the arrangement previously.

MR. AITKEN: Yes, sir.

REDIRECT EXAMINATION

BY MR. AITKEN:

Q Did you know Tiburcio Jonota, Benito Mirivelles, and Roman Dizon on or about the month of April 1945?

A Yes, sir.

Q Were you with them at that time, upon the occasion of being apprehended by Japanese soldiers?

MR. VARD: Objection. Was there a date stated here? I didn't catch it.

MR. AITKEN: In the month of April.

MR. VARD: Objection withdrawn.

MR. AITKEN: About the month of April.

A Yes, sir.

Q Whereabouts was it that you four were apprehended by the Japanese?

A We were hiding in the house, in the evacuation place owned by Roman Dizon.

Q Where was that place?

MR. AITKEN: Might I ask the Commission if the term "evacuation place" is a familiar one to the members

of the Commission? If not, I can bring it out from the witness.

COLONEL STICKNEY: It is to me, but I think not to the other members of the Commission.

MR. AITKEN: What is the answer?

(The reporter read the answer.)

Q Where was that house?

A Near the brook.

Q What name had the brook?

MR. SCHAUER: Before you proceed further ---

A The name of the brook is To-ong.

COLONEL STICKNEY: Just a second. Let us not try to go too fast.

MR. SCHAUER: There is a word which I did not catch --- Cabatangan?

MR. AITKEN: Cabatangan.

MR. SCHAUER: Is that the barrio in which the house was located?

COLONEL STICKNEY: I think, if we want to know anything in the record, if we will ask the reporter to please read it, we will get further. What is it that is troubling you?

MR. SCHAUER: I heard the name "Cabatangan" mentioned just a few moments ago and I didn't hear in just what connection that name was mentioned.

COLONEL STICKNEY: Will the reporter read that place where he speaks of Cabatangan?

(The reporter replied that the name "Cabatangan" was not mentioned in the record.)

COLONEL STICKNEY: Apparently Cabatangan is not

in the official record which the reporter has. Do we have the name, the name of the brook?

(The reporter read the last answer.)

Q Where is the river Cabatangan, with reference to this place?

A Cabatangan is not a river, it is a sitio.

Q You used the expression "evacuation place." What do you mean by "evacuation place"? Tell the Commission that.

A As others say, "evacuation" is a place for hiding.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath.

(Interpreter Belaong reminded witness that he was still under oath.)

Q Now, on this date when you four were at the evacuation house, and by the way, whose evacuation's house was this?

A It was Poman Dizon.

Q Now, what happened?

MR. WARD: Objection to that unless we lay some sort of a foundation. We don't know where this evacuation house of Dizon's was. As far as we know it was near the Brook To-ong.

MR. AITKEN: I will withdraw it.

Q In what municipality was this evacuation house?

A Talisay.

Q And where was the nearest barrio?

A The nearest barrio was Concepcion or Granada.

Q Do you know of a place called Magbuyo?

A Yes.

Q Where was that with relation to this evacuation house?

A Magbuyo is at the mountainous part of that place where we were hiding.

Q Now, at the place where you were hiding, were you apprehended?

MR. WARD: Objected to, at least until he states how near this mountainous place was that he was hiding.

MR. AITKEN: That will come out.

MR. WARD: Yes.

MR. AITKEN: He cannot answer everything at once.

MR. WARD: Yes, but we would like a foundation before they start going into something with which the defendant may or may not be charged.

COLONEL STICKNEY: Can we get a better location for the scene of the evacuation house?

Q How close to the municipality of Bacolod was the evacuation house of Dizon?

A I estimate it is about seventeen kilometers from Bacolod.

MR. WARD: That was in response to what question?

MR. LITKEN: I asked him how far it was.

COLONEL STICKNEY: Let's not have any back and forth between the two counsels.

MR. WARD: I was asking the reporter.

COLONEL STICKNEY: It might be best if you addressed the Court, I understand. Will the reporter please tell the counsel what he wants to know?

(Question read by reporter.)

Q And how close to the barrio of Magbuyo was the evacuation house of Dizon?

A Do you mean the place or the evacuation to Magbuyo?

Q Yes.

A I think the distance is as far as going from that place of the evacuation to Bacolod.

COLONEL STICKNEY: I would like that question again, please.

(Question read by reporter.)

Q Were you arrested that day?

MR. WARD: Objection again. We have no set day - it is sometime in the month of April.

COLONEL STICKNEY: Anything from the prosecution?

MR. AITKEN: I am going to ask him when he was arrested, I have to find out how he was arrested.

MR. WARD: You can ask him.

COLONEL STICKNEY: I don't like the back and forth talk going on here. We have a question, do we have an objection?

MR. WARD: Objection.

COLONEL STICKNEY: State your objection.

MR. WARD: There was no foundation made with any specific date.

COLONEL STICKNEY: Now, will you please keep quiet. Any reply to the objection?

MR. AITKEN: Yes, Sir. I have already fixed the month of April and I am asking this witness if he was arrested and if his answer is "yes" I will ask him what was the date he was arrested on. I can't tell him, "Were you arrested on or about such and such a day" because I don't know.

COLONEL STICKNEY: To make it clear in my own mind, I think you brought him to a certain house which was a hiding place, on a certain day, without fixing the date in the month of April.

MR. AITKEN: Right.

COLONEL STICKNEY: Now, you want to know if he was arrested on the day he went to that hiding place. Any objection by the defense?

MR. WARD: There is an objection by the defense unless you place the time. Otherwise it is completely immaterial.

COLONEL STICKNEY: The objection is not sustained. Will the reporter please read the last question?

(Last question read by reporter.)

A Yes, sir.

Q Do you remember the day of that month when you were arrested?

A I remember the month, but I cannot recall the date.

Q Can you tell us whether it was the beginning of the month, or the middle of the month, or the end of the month?

A I think only that it is about somewhere in the date of April 4, but I am not so sure.

Q Who was with you on the time of your arrest?

A Tiburcio Jonota, Benito Mirivelles, Roman Dizon, and I.

Q Who arrested you?

A The soldiers of Captain Nanjo, and also Captain Nanjo.

Q What did they do, how did they carry out the arrest?

MR. WARD: Objection at this time. I object. He obviously is trying to get an answer of some sort of violence, of some nature, We have no foundation. It is completely immaterial to the fifth count. And that is what counsel is attempting to bring out. So far as a location, that is approximately seventeen kilometers from Bacolod and seventeen kilometers from Magbuyo. The Specification reads that the torture was near a river called the Cabatangan and he was killed at or near Magbuyo. Any testimony given at this time as to this Specification is completely irrelevant and immaterial. We are completely out of the vicinity.

COLONEL STICKNEY: Any reply.

MR. AITKEN: Yes, it is within the vicinity of Bacolod, it is in Occidental Negros, it was within the --

close by or equal distance to the barrio of Magbuyo, and the testimony will develop further more complete details.

MR. WARD: All right, if we lay a foundation as to more complete details in relation to this Specification that the defendant is charged with, my objection will be withdrawn. But we have seventeen kilometers from Bacolod City, that is without the city of Bacolod, we have seventeen kilometers from a little barrio that you can't find on a map. At this time we are completely precluded from making a defense. This is completely extraneous as to the town. It is completely immaterial.

COLONEL STICKNEY: Is that all? Anything further?

MR. AITKEN: We are not pinned down to a little spot within a certain distance of the town, if it is in or near the vicinity of that town, because this is a wide open country and distances -- sometimes they are near and sometimes they are far. The testimony will develop just exactly what the nature of this country was. I can't get it any closer to Bacolod than the witness has testified, but that it is in the vicinity of Bacolod.

MR. WARD: The whole principle in being specific is to put the defendant on notice. That I believe is agreed on. Now, the prosecution can do one of two things. If in this Charge and Specification they can say this occurred in some place in Occidental Negros, or they can possibly mislead the defendant in stating it took place in a certain vicinity. In this instance, they charge Magbuyo, or a river Cabatangan. If they did that, probably to mislead the defendant they have succeeded admirably. However, if they did not know they certainly

should never have specified a certain place to prejudice the defendant's right and then introduce completely extraneous evidence, or testimony. In this instance they are completely out of the vicinity of the places mentioned in that Specification.

COLONEL STICKNEY: Anything further?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: Before ruling on the objection, I would like to comment. Originally, Specification 5 read "At or near Cabanatuan River". That was changed to "At or near Cabatangan River". There is testimony from the present witness that Cabatangan is not a river but is a sitio. However, if all other elements of the Specification charged are proved except the location, the Commission must do one of several things -- they must have proven for them that this was at or near Cabatangan River, or they must have exceptions and substitutions making it possibly Cabatangan sitio or something else. But the spot as described, being in the municipality of Talisay has the two nearest barrios being Concepcion and Granada, and with Bacolod being seventeen kilometers away, is very indefinite. We cannot place it with respect to Carmen, Bacolod, Boroboro, other places named in the other Specifications. It is believed that the location must be more definitely pinned down, and the objection of the defense is sustained.

Q Do you know where the Cabatangan River is?

A There is no river called Cabatangan, but there is a sitio called by that name.

Q How far is the house of the evacuation -- how far is the evacuation house where you were arrested of Dizon, from the sitio of Cabatangan.

MR. WARD: Objection again. It is completely immaterial because there is no such sitio named in the Specification, and again it is not near the river. There is no such river named, as there is no such river in the vicinity called Cabatangan. Thus further questioning along that line would be immaterial.

MR. AITKEN: The map shows there is a Cabatangan River, the witness probably does not know.

COLONEL STICKNEY: Do you refer to the map we have?

MR. AITKEN: I have not used that map. I use a large map and I have used this map.

MR. WARD: At this time I object to further proceedings of counsel along this line because it is going to amount to one of two things. One, he is testifying himself. Secondly, there is no such exhibit that he is referring to. And if so, he needs to have someone on the stand to testify as to that exhibit. Therefore, any further testimony along this line is incompetent.

COLONEL STICKNEY: The prosecution understands he is not a witness giving testimony. However, the defense has made a statement that there is no such river and the prosecution is firmly of the belief that there is such a river.

MR. WARD: I stated that the witness stated there is no such river -- I do not know. At this time I believe that there is an objection before the Court as to further proceedings.

COLONEL STICKNEY: What is your objection?

MR. WARD: That the prosecution at this time can proceed with no incompetent evidence. He is attempting to use a map in some way and any such procedure is going

to be incompetent and out of order. I can't understand how he is using this map as evidence.

MR. AITKEN: The Court can take judicial notice of anything that is on a map.

COLONEL STICKNEY: The prosecution, if they wish, may introduce the map.

MR. WARD: Certainly, they have I believe, have they not?

COLONEL STICKNEY: Not that I know. Do you know that they have?

MR. WARD: I thought that each of the Commission had a map in their folders. I see one before you.

COLONEL STICKNEY: It has not been introduced as evidence.

MR. WARD: I am sorry.

MR. AITKEN: May I have a few minutes, please, it is difficult for me to find it.

MR. AITKEN: I would like to state at this time that I am having some difficulty in finding what I thought I had down in this map as the Cabatangan River. I find a Cabalagnan River, which I might have thought at the time was Cabatangan, looking at it hurriedly. I am not too sure yet that I didn't see Cabatangan River, but I don't think I ought to take up any more time of the Court at this time. I will look it up more thoroughly later on.

COLONEL STICKNEY: Is there a decision before the Commission at the present time?

MR. WARD: There is an objection before the Commission by the other reporter, I think. I can rephrase the objection, sir, if that is satisfactory with the Commission.

COLONEL STICKNEY: Yes.

MR. WARD: I object to any further proceedings along the line of the identification of the place by counsel, as he had been testifying himself and further testimony by the prosecution is completely immaterial, irrelevant, and with prejudice to the defendant.

COLONEL STICKNEY: The place of evacuation you are speaking of?

MR. WARD: Testimony. Any further testimony in that regard. I believe that that objection has been sustained and my further objection was as to any incompetent evidence given by counsel for the prosecution.

COLONEL STICKNEY: Any objections which have been sustained are things of the past. What is the present situation?

MR. WARD: Any further testimony as to locations by the prosecutor is incompetent testimony and, therefore, objected to.

COLONEL STICKNEY: What do you mean by testimony from the prosecutor?

MR. WARD: The prosecutor is attempting to lay a foundation himself, not with the witness.

COLONEL STICKNEY: You thoroughly understand that is not evidence?

MR. WARD: If it were admitted, it certainly would be. Anything admitted would be testimony or evidence when it is put into our record as a foundation for further questions of the witness.

COLONEL STICKNEY: Do you understand the prosecutor is not on the witness stand?

MR. WARD: That is right.

COLONEL STICKNEY: You understand he is not under oath? You understand anything he said is not evidence?

MR. WARD: That was the basis of my objection.

COLONEL STICKNEY: Anything from the prosecutor?

MR. AITKEN: Yes. Any geographical location is taken judicial notice of by any court, particularly if that geographical location appears on a map of general circulation from which anybody, the whole world, will take it as information as to that locality. It doesn't have to be offered as a matter of evidence. A particular spot somewhere within a geographical area might require some evidence, but where the allegation such as is alleged here places an act within a municipality or at or near a municipality in or about a certain date of an event by a certain person and those facts are provable, even if there are discrepancies in the evidence or divergencies in the evidence as to the exact locations, the Commission can find where the exact

location of the incident was. And if the allegation requires an amendment to conform to the truth, it can be had and be made. I think that if the scene is laid in or about the vicinity of a certain place on such and such a date, and it is proved to be that, it isn't necessary to confine it to a particular spot, particularly in country locations, where a house is here and a house is there and it is an impossibility to state exactly where a shack might be out in the woods or in the country, out in the bundocs, as you say here.

COLONEL STICKNEY: I would like to ask -- have you any intention of placing this evacuation place with relation to Sitio Cabatangan?

MR. AITKEN: I don't know, except by eliciting information from the witness.

COLONEL STICKNEY: It is the understanding of the Commission that there are three witnesses to this --

MR. AITKEN: Yes, I can withdraw this witness.

COLONEL STICKNEY: -- Specification, and it is the opinion of the President and Law Member that, in order that he may cross-examine any witnesses, all elements need come into evidence proving the element of location. Now, are you ready to proceed with this at this time or would you rather wait until tomorrow morning?

MR. AITKEN: I would much rather wait, in view of this condition of the weather. It is rather disturbing now.

COLONEL STICKNEY: If we adjourn presently, to meet at 0830 on the 12th, is there any objection on the part of the defense to changing the order of witnesses from this witness back after other witnesses have testified?

MR. SCHAUER: No objection.

MR. WARD: So long as you don't change the wording of the Specification again, that is satisfactory.

MR. AITKEN: I have no objection to withdrawing the witness to put on another.

MR. WARD: No objection.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 0830 hours, 12 October.

(The Commission adjourned at 1435 hours, 11 October 1946, to reconvene at 0830 hours, 12 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

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PUBLIC TRIAL

VOLUME VI

Pages 368 to 404, Incl.

DATE: 12 October 1946

COPY NO.: /

MANILA, P. I.

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
12 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President & Law Member
LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WALL, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd Lt. HAKUZO NITTA	Japanese
Tec 3 TAKEO SAITO	Japanese
FILOMENA ZOSA	Ilongo (Visayan)
PEDRO GENOVES	Ilongo (Visayan)
MACARIO E. BELAONG	Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 12 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the official interpreters, and the reporter are all present.

Will you remind this witness that he is still under oath?

(Witness, Gil Tanique, reminded that he was still under oath by Interpreter Belong.)

MR. AITKEN: I would like to state at this time that since the adjournment of yesterday, I have come to the conclusion that the expression in the specification in question, the fifth, of Cabatangan River, is in error. However, as the specification has two features to it, one of which charges beating and torturing on or about the Cabatangan River in the vicinity of Bacoled, Province of Occidental Negros, Philippines, of Tiburcio Jonota, Gil Tanique, Benito Mirivelles, and Roman Dizon, I will abandon so far as this witness is concerned any reference to beatings and torture. However, as the specification goes on and says, "and did, at or near Barrio Magbuyo, Province of Occidental Negros, Philippines, kill the said Roman Dizon and Benito Mirivelles, in violation of the laws of war," I will question the witness directly relating to that feature of the specification only.

FURTHER REDIRECT EXAMINATION

BY MR. AITKEN:

Q Yesterday you stated that about the 4th of April, 1945, you together with Benito Mirivelles and Roman Dizon, Tiburcio Jonota, were apprehended by the Japanese -- where now are Benito Mirivelles and Roman Dizon?

A Benito Mirivelles and Roman Dizon are already dead.

COLONEL STICKNEY: Will the reporter read that answer, please?

(Answer read by reporter.)

Q When did they die?

A On April 4, 1945.

Q On the same day that they were arrested with you?

A Yes, sir.

Q Where did their deaths take place?

A Magbuyo.

Q What is Magbuyo?

A Magbuyo is a mountain.

Q Where?

A It is in the eastern part of To-ong Mountain.

Q Who brought about their deaths, if you know?

MR. WARD: Objection as to where Barrio Magbuyo might be in relation to the To-ong Mountain, and if the actual deaths occurred at that place a better foundation, I think, should be laid.

MR. AITKEN: He said they died at Magbuyo.

MR. WARD: Yes, which, Magbuyo Mountain, Magbuyo Barrio, Magbuyo River, or what?

COLONEL STICKNEY: You are objecting to that question?

MR. WARD: As requesting further foundation before such question can be asked as to what --

MR. AITKEN: I will withdraw the question.

COLONEL STICKNEY: Very well.

Q Is there a barrio Magbuyo?

A There is none.

Q Is the locality -- what is the locality called where the deaths occurred?

A That place Magbuyo is a mountain.

Q Is there any other place around there that is called Magbuyo?

A There is also a brook called Magbuyo.

Q Where is that in relation to the Mountain Magbuyo?

A It is near that.

Q Did you see how Dizon or Mirivellies died?

MR. WARD: Objection again, there is no foundation laid. Here the prosecution has alleged it an offense that the deaths of three people occurred at a Barrio Magbuyo. At this time there is no such place as Barrio Magbuyo, there is no such place as Cabatangan River. He is laying down two spurious identities as locations for the crime in the 5th Specification. At this time we object to any further testimony relating to that specification as there is no such place as named in that specification.

COLONEL STICKNEY: Any reply?

MR. AITKEN: Yes, the witness has testified that there is a place called Magbuyo. It happens to be a mountain instead of a group of buildings, or a barrio, and barrios are not always groups of buildings, though usually they are. That

there is also a place nearby, a brook known as Magbuyo, but I think he has located the place Magbuyo so that it is sufficiently identified. And, in making findings, if the facts are found as proven all the court or Commission need to do is to say that it is at a place called Magbuyo, which happens to be a mountain instead of a cluster of buildings.

COLONEL STICKNEY: Before ruling on the objection, I would like to -- you have, as I understand, three witnesses for Specification 5?

MR. AITKEN: Yes.

COLONEL STICKNEY: Do you intend to use them all?

MR. AITKEN: Yes.

COLONEL STICKNEY: Have you found the locations from all three of your witnesses so that you know definitely where things have happened in the specification?

MR. AITKEN: They used the same expression, Magbuyo.

COLONEL STICKNEY: It is perfectly clear in your own mind whether or not this happened in Barrio Magbuyo?

MR. AITKEN: At a place called Magbuyo.

COLONEL STICKNEY: I am asking you if you have talked to your three witnesses on this specification thoroughly, so that is clear in your own mind that this did or did not happen at Barrio Magbuyo?

MR. AITKEN: Some called it barrio and some say it is just a place.

COLONEL STICKNEY: Can you have one of your witnesses here locate it as Barrio Magbuyo?

MR. AITKEN: I think so.

COLONEL STICKNEY: You don't know?

MR. AITKEN: Some of the witnesses have mentioned the word "Barrio Magbuyo" to me, but this witness seems to insist on Magbuyo as a place.

COLONEL STICKNEY: It is very important that the places where things have been alleged to have occurred are the places where they did occur. And, as President of the Commission, I would like you to present your case in such a manner as to prove this element of the specification -- the place, if possible -- Barrio Magbuyo. If not, I would like you to have the specification changed or dropped -- whatever in your opinion is proper.

MR. AITKEN: All the testimony is that there is only one place known around in that locality as Magbuyo.

COLONEL STICKNEY: I have stated the wish of the Commission, and the Commission will take a short recess, during which time it is desired that you have your case thoroughly prepared as to the place where this occurred, and put the proper witness on the stand. The objection of the defense is sustained.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: At this moment I would like to withdraw temporarily from the witness stand the witness, Gil Tanique, and substitute him with Tiburcio Jonota.

COLONEL STICKNEY: So ordered.

(Witness withdrawn.)

TIBURCIO JONOTA.

a witness for the prosecution, being first duly sworn, was examined and testified as follows through Interpreters Genoves and Belaong:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Tiburcio Jonota.

Q Your age?

A 45.

Q Your occupation?

A Farmer.

Q Do you know a locality in the vicinity of Granada, Occidental Negros, known as Hagbuyo?

A Yes, sir.

Q Are there houses there?

A Yes, sir, there are many houses at Hagbuyo.

Q Do people come there?

A There are many people going there.

Q What do they come there for?

MR. WARD: Objection. It is completely immaterial what somebody goes there for.

MR. AITKEN: This is preliminary. I am trying to --

MR. WARD: I would like him to establish what he is driving at. What people go there for is entirely immaterial.

COLONEL STICKNEY: Objection is not sustained.

A People go to that place because they are buying farm products, such as ginger, garlic, tomatoes and other agricultural products.

Q Is it a center where people from outside haciendas, come to buy these products?

A That Magbuyo is a mountain.

MR. AITKEN: Please repeat the last question.

(The reporter read the question.)

A That is not really a center, but people go to that place to buy their farm products which were raised by the people in that place.

Q Is it called by them a barrio or a sitio or what?

A Others call it as Barrio Magbuyo when they go there to buy those products, but so far as I am concerned, I cannot call it as a barrio. I just say that I am going to Magbuyo.

Q When you say you are going to Magbuyo and other people say they are going to the Barrio of Magbuyo, is it understood commonly that you are going to the same place?

A It is the same place.

Q Were you there on the 4th of April 1945?

A Yes, I was there.

Q Will you relate what happened there that day?

MR. WARD: Objection at this time. We object on twofold: first, that the witness states that this is not Barrio Magbuyo, as far as he is concerned. He states others may have said so. Secondly, as soon as this objection

is decided upon there will be another motion.

COLONEL STICKNEY: Any reply?

MR. AITKEN: The witness has testified that in his opinion he wouldn't call it a barrio, but that the various people from about there going to that place to buy these vegetables and so forth, say they are going to the Barrio of Magbuyo. In other words, it is known by a great many people as the Barrio of Magbuyo and that it is a center that is known by that name.

MR. WARD: That is a misstatement of the facts. The testimony was that "others say it is Barrio Magbuyo, but I don't call it so." It is not a great many people at all. One or two may have called it that. That is not the testimony.

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: Secondly, at this time, because this is a question of foundation, the defense wishes to use its rights for a voir dire examination as to the foundation before further facts have been elicited from this witness as to this count.

MR. AITKEN: There isn't --

COLONEL STICKNEY: Wait just a second. Are you through?

MR. WARD: That is right.

COLONEL STICKNEY: The prosecution will have to explain the highly technical term used to the laymen of the Commission here.

MR. AITKEN: A voir dire is usually the series of questions that are asked. For instance, jurymen, when they

are qualifying for a jury, they are asked a great many questions, the answers for which can furnish the basis and causes for challenge and so forth. That is called a voir dire. It may be that some set of preliminary questions for some particular purpose might be called a voir dire, but it is a rather unusual use of the expression. However, here the defense counsel has the right of cross-examination. There is no necessity or call for what he calls a voir dire here. I asked the witness questions as to the location of a place. He mentions it. Cross-examination is not broken up into two or three parts, which counsel here for the defense is trying to do. This isn't a proper voir dire by any means.

COLONEL STICKNEY: The Commission is not well in a position to rule on this last motion.

MR. WARD: We may have further argument. I can prove a voir dire is necessary here, both as a necessity in this case to give the defendant a chance to protect his rights and explain further what a voir dire consists of, which counsel can confirm if he wishes.

COLONEL STICKNEY: In so far as this Commission is concerned, it is desired that you talk in **non-technical** terms, **simple** terms, and let us know why there is any objection to the present question being answered.

MR. WARD: That is correct. Voir dire examination means prior examination. Whenever a series of facts are going to be brought out from a witness they need a foundation before those facts get before that Commission, or jury, and have a right to prejudice. The counsel for the other side has a right to go into the foundation and see if such a foundation has been established. In other words, where you put an expert witness on the stand he has to be qualified as to his qualifications in being an expert witness. Before his testimony goes before that jury or judge the other side has a chance to question him and make sure he has those qualifications. Otherwise, the party calling the witness could say, "You have been a doctor," for instance, "for so many years," and then ask him a very intricate question as to brain surgery which obviously the doctor would not be qualified to answer -- you would need a brain specialist. Now, the jury is a very good example again. At that time before the jury hears the facts, you have a chance to cross-examine them first in order to find their qualifications. At that time you may kick them out, or excuse them.

In this instance we have a question, a foundation question as to locality. A witness has previously taken the stand and stated there is no such place as Barrio Magbuyo. This witness takes the stand and states that there is a mountain called "Magbuyo." Others have used the word "Magbuyo" as a barrio Magbuyo, but he states that he personally would not call it Barrio Magbuyo. At this time there is sufficient doubt before the court, especially so, as counsel for the prosecution has been going over the questions with the various witnesses showing

them what he wishes as their description, not to change their testimony. That is not my statement, but they know what he wants, and he himself ~~to~~ refuses to say that there is such a place as Barrio Magbuyo in his own mind. But others either have used it or may have used it. Now, at this time defense wishes to use its rights known as voir dire examination before the witness testifies further as to any facts that should come before this Commission. As to this foundation if we show, of course, that there is no such place as Barrio Magbuyo, no further testimony can be elicited from this witness.

MR. AITKEN: Counsel and I disagree very fundamentally.

COLONEL STICKNEY: Had you finished?

MR. WARD: Yes.

MR. AITKEN: (Continuing) On certain legal questions. When expert witnesses are put on the stand it is the duty of the party producing the witness by asking him questions as to his education, experience, and so forth, and to develop the fact that he is an expert and qualified to answer the questions that require expert testimony. And, after the party producing him feels that he has asked him sufficient to qualify him he then proceeds to question him and elicit his expert testimony.

Now, when asked a question after that if the opposing side feels that he is not qualified they will object to the question on the ground that the man is not qualified as an expert and the court will then pass on whether the qualifications as given have qualified him or not, and will rule on

the objection. If the court overrules the objection to the testimony, the defendant still has on cross-examination an opportunity to ask all sorts of questions of the so-called expert in order to show he did not know what he was talking about. But he cannot do it in advance once the court has overruled the objection and decided the man has qualified as an expert and there is not any voir dire at that particular time. When a witness is asked ordinary questions such as being asked here as to geographical knowledge, he cannot be stopped and cross-examined in the midst of that in order to tell what his education is, how he found this out, how he thinks this and that. If his answers answer the questions, and they are not satisfactory to the defense, they can refute them when their turn comes through cross-examination or through other witnesses.

MR. WARD: May I ask one question of the prosecutor?

COLONEL STICKNEY: I beg your pardon?

MR. WARD: May I ask one question of the prosecutor?

COLONEL STICKNEY: I don't know that that is in order. We have heard the arguments of both sides twice. If we would like further arguments, but I don't know as we want a question and answer contest between the defense and prosecutor.

MR. WARD: Well, I can ask it direct to the Commission, if you prefer.

COLONEL STICKNEY: All we want now is argument on your motion.

MR. WARD: Mr. Aitken made an argument as to the fact there being no voir dire, when in this particular instance I am astounded. He made an example of an expert witness. I

wish to ask Mr. Aitken, and he may argue as part of his argument, he is putting on record the fact that there is no voir dire examination on an expert witness prior to the expert's testimony going into the record. Has he never heard of that or never used it, or seen it himself? I am astounded.

COLONEL STICKNEY: Is there any further argument?

MR. WARD: My argument is obviously in its face, both as to logic and to the law.

COLONEL STICKNEY: Has the prosecution finished its argument?

MR. AITKEN: Yes, finished.

COLONEL STICKNEY: The motion is denied, unless objected to by other members of the Commission.

MR. WARD: One further objection. We object at this time because there is still not sufficient foundation laid as to the place being called Barrio Magbuyo -- mainly for the record.

COLONEL STICKNEY: Any reply?

MR. AITKEN: The witness has testified that there is such a place, that it is known by many people as the Barrio Magbuyo, although in his opinion it may not be a barrio, he would prefer to call it a mountain. But, he has described it as a place where there are houses, where people come from outside. A sort of a center. He said he would not use the word center, to buy vegetables of various kinds that apparently must be produced in that locality there. And that many refer to it as Barrio Magbuyo. They may be just as certain as he is as to the technical use of the expression "barrio."

It is an expression that is occasionally used all through the Philippine Islands wherever there is a group of houses -- people often call them barrio. Technically many of those groups are headed by a teniente, but as a matter of fact under the present political set-up in these islands there are no teniente of barrio any more. That is an old Spanish expression where they would have a teniente of a barrio -- the same as they have an alguacil who is in charge of a sitio. That is no longer existent in the Philippines. It was under the Spanish system and, however, those terms sitio as being headed by an alguacil which might or might not exist, or a sitio which might or might not have even houses in it, it might only be a geographical location, or carried on by the people here as an old relic of what existed in those days. We don't have teniente of barrios any more. We have mayors of cities and --

COLONEL STICKNEY: Mr. Aitken, I would like to interrupt you at this time and say that I have been on a Commission within the last month at which a barrio lieutenant appeared as a witness.

MR. AITKEN: It may be right, I may be wrong, but I don't think --

COLONEL STICKNEY: That is, I can state that as a fact, and that is why I interrupted a long discourse about the ancient Spanish custom.

MR. AITKEN: I don't know what they call a barrio lieutenant. I know they have mayors of cities they elect, and they have justices of the peace in the localities, and so forth. I venture to say that there is no such official

position as a teniente to a barrio, although a person might be called that.

COLONEL STICKNEY: Teniente, of a barrio, is that spanish for barrio lieutenant in English?

MR. AITKEN: Yes, that is right.

COLONEL STICKNEY: Very well.

MR. AITKEN: And he was the head of the barrio at that time.

COLONEL STICKNEY: Does that complete your argument? Does the defense have anything further?

MR. WARD: Yes, three things. First, this long explanantion of housing situation is completely immaterial, as far as the argument goes. Even if the counsel is correct as to the city form, now he certainly is not correct as to the country. They would not have any mayor over a group of huts. For one thing, it is not a technical definition of a barrio, which according to the prosecution is an antiquated term. There is a group of huts at best in this locality.

Secondly, counsel has misstated the testimony again. The testimony was that others, not many others, but others, and there is nothing specific of who he ever talked to calling it Barrio Magbuyo. The witness on the stand now realizes, for some reason, that the counsel for the prosecution is trying to establish a fact and he is doing his level best to help him. He cannot go so far as himself, to say it is a barrio, because he knows it is not so. All he has said is "others, not many," he has not specified where he has heard it or how many times he has heard it. He is doing his best to give the weakest support possible and still maintain his

integrity as a witness to help the prosecution along.

Thirdly, that is not on the map, and it is not connected with any city. It is completely a spurious locality described by the prosecution, for which the defense has had no chance to prepare. Already in this one specification we have had a river misnamed, we had it amended. Again, there is no such river. Now, they are trying to prove a barrio that is no barrio. The defendant is being terribly prejudiced by this sort of examination. In addition to that we are having no right to go into the identity of this barrio. We are not allowed to ask this witness questions as we should be. There is no barrio, and they are trying to get all of his testimony before the Commission without laying a proper foundation.

MR. AITKEN: I will withdraw ~~any~~ objection I had to defense counsel pre-examining the witness on the question of barrio, if he wants.

COLONEL STICKNEY: You wish the defense to have the so-called right of voir dire at this time?

MR. AITKEN: He may have it.

COLONEL STICKNEY: That is your wish?

MR. AITKEN: He can ask anything from the witness that will help him get to the testimony.

COLONEL STICKNEY: If you wish -- we see no reason why it should not be done.

MR. WARD: We thank counsel for the prosecution.

CROSS-EXAMINATION

BY MR. WARD:

Q There is a mountain called Magbuyo, is there not?

A That is true.

Q There is also a river, or brook, called Magbuya, is there not?

A Yes, sir.

Q There is quite a bit of farming about this area of the mountain and the brook, is that not so?

A Yes.

Q Now, are not these houses of the farmers lined up along the river banks?

A Other houses stand near the banks of the river, others are in the open plain.

Q And these houses are inhabited by farmers, are they not?

A Yes.

Q Their plot of lands extend immediately around their little house or hut, is that not so?

A Yes.

Q And they call this whole farming area Magbuya, is that not so?

A Yes.

Q Where do these farmers take their products?

A They take their products to the barrios of Concepcion, Granada, also to Bacolod City and Silay.

Q Do they have a local market area by the river or the mountain?

A There is none.

Q In other words, you refuse to call this farming region a barrio because there is no close cluster of houses, is that not so.

A Yes.

MR. WARD: The defense rests, you may have your witness again, Mr. Aitken.

COLONEL STICKNEY: Are you ready to proceed, or would you like the last question?

MR. WARD: There is still a motion before the Commission.

COLONEL STICKNEY: The motion is denied, unless objected to by other members of the Commission.

MR. WARD: The motion is now that there is no such barrio as Magbuyo Barrio.

COLONEL STICKNEY: I have heard three motions, and the three have been denied, is there a fourth?

MR. WARD: That is all.

DIRECT EXAMINATION (Continued)

BY MR. AITKEN:

Q Were you at this place which you have stated some people call the barrio of Magbuyo, which you call the mountain of Magbuyo, the 4th day of April, 1945?

A I was there.

Q I will ask you also, are you well acquainted with the geography of the country all around this Magbuyo area?

A I am not much acquainted with that place because I have only been there once.

Q At this place then, where you were on that day, who was with you?

A On that day I was with Roman Dizon, Benito Mirivellas, Gil Tanique and I.

Q Under what circumstances were you there?

A We happened to be there because when the Japanese arrested us they brought us to that place, Magbuyo.

Q Now, where did they arrest you?

A I was caught at the place at Sitio Te-ong, in the evacuation place of Mr. Roman Dizon.

Q Were the others caught there at the same time, at the same place?

A No others, we only four.

Q I am referring to you four.

A Only four of us were caught.

Q At the evacuation home of Roman Dizon?

A Yes, sir.

Q Now you left, about what time of the day was it?

A Because I had no watch I think it was around 9 o'clock in the morning.

Q How many Japanese captured you, approximately?

A In my estimate I think there were over one hundred.

Q Under whose command were they?

A Their commander was Captain Nanjo.

Q Now, after they captured you where did they take you?

A When they arrested us they brought us to Magbujo.

Q Were you restrained, in other words, were you tied or were you carried, or what was your condition as a prisoner as you proceeded from the place of your capture to Magbujo?

A First, two of us were being tied, both hands --

MR. WARD: Objection. Now, obviously the statement is what counsel was trying to get in before as to some mistreatment at a place other than that mentioned in the specification.

MR. MITKEN: I will disclaim any effort to bring in the question of mistreatment.

MR. WARD: The question obviously is "how you were brought."

MR. AITKEN: I will strike out anything I said about that.

MR. WARD: We are objecting to the question as obviously leading as to what counsel was trying to get in before, and he is obviously getting in from the wording of that last question. They have been captured and taken to Magbuyo -- what happened in Magbuyo at that time?

MR. AITKEN: It is a preliminary question in order to bring out the order of march, and it is not intended in any way to bring out mistreatment.

MR. WARD: Exactly, that is obviously mistreatment, and again he has already been overruled, and a similar question has been prevented by the court, and through surreptitious questioning he is **bringing** out the same material.

MR. AITKEN: I am offering to prove this, and I am right in making an offer.

MR. WARD: We object to any offer.

COLONEL STICKNEY: I would like, once more, to tell both the prosecutor and the defense counsel that they must keep in mind the reporter who cannot possibly take down the testimony of two people talking at one time. Now, I will ask you not to interfere with what is being said, and I will ask you, now that you have stopped, not to interfere with what the defense says.

MR. WARD: We have to beg your pardon, sir, if the counsel is starting to testify I have a right to interrupt him. He is putting in the record something we are not allowing the witness to put in. We have the right to prevent counsel from saying what he was starting to do at that time -- we have to interrupt.

MR. AITKEN: I --

COLONEL STICKNEY: Wait a minute -- are you through?

MR. WARD: Yes.

COLONEL STICKNEY: Now, I would like to say something. Everything said in this court we want to go in to the record for the reviewing authority. It is impossible for one reporter to take the testimony of two people at one time. We definitely do not want to have a situation where the reporter has to listen to who talks the loudest or who talks the fastest. We wish each one to have his turn. Now, what is the situation -- there is an objection, is that correct?

MR. WARD: That is correct, and we further --

COLONEL STICKNEY: Here, as in many other cases, we have had long back and forth dissertations, repetitions from both sides, and it has filled the record with things that don't need to be in there. We would like, when there is a motion from either side, for that side to make its motion, to say all it wants to in regard to the motion, and the other side to present any reason why the motion should not be granted, and then let the Commission rule on the motion. We cannot allow two people to talk at one time. We cannot grant to either side the permission to stop the other one whenever he feels like stopping him. We, at the moment, were paying our attention to the prosecution. I suppose the reporter probably was, but I can see the difficulty that the reporter gets into when a very fast talking defense counsel interrupts and talks simultaneously with the

prosecution. It is just impossible to take it down, and it is an impossible procedure which will have to cease.

MR. WARD: One question.

COLONEL STICKNEY: What is your question?

MR. WARD: At this time forward it is the Commission's ruling then that I am not entitled to interrupt counsel's testimony from the floor, regardless of prejudice of the defendant. As the Commission has already stated, because all of this goes into the record before the reviewing authority. Counsel's sole purpose in so stating, that is what I offer to prove, is to get it into the record regardless of what his witness states, so that the reviewing authority can tie whatever the witnesses bring forth into his own statement. And obviously they cannot segregate the two. That is one of the rights of the defendant, not to have the prosecutor so testify. We have to prevent that from getting into the record. If the Commission rules that from now on I cannot interrupt Mr. Aitken when he is testifying in his so-called offer to prove, I will submit that is the ruling, regardless of the prejudice of the defendant.

COLONEL STICKNEY: That is the ruling. I would like to speak for the Commission. I would like to tell Mr. Aitken that we are not interested in any testimony that he may give at any time. We are interested in evidence presented by written document or by witnesses under oath. I would like Mr. Aitken to refrain from giving anything which, when it appears in the record, may be misconstrued by the reviewing authority as being testimony.

MR. AITKEN: I understand. I would like to say,

however, to the Commission that I think I am pretty sure that there is a statement in the procedure, the letter of procedure, which states that at any time when a dispute arises as to the relevancy of testimony, the Commission may ask the proponent to make an offer and show what he intends to prove in order that the Commission can decide on relevancy. Now, there was some objection made here and I was in the position and about to offer, to tell the Commission, what I expected to prove by the witnesses.

COLONEL STICKNEY: The Commission has not asked you to make that statement. How do we stand now, do we have a motion?

MR. WARD: An objection.

COLONEL STICKNEY: (To reporter) Can you read the objection?

THE REPORTER: "Mr Ward: Objection, now obviously the statement is what counsel was trying to get in before as to some mistreatment at a place other than the one mentioned in the specification."

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: Will you repeat that question, please?

(The reporter read the question.)

COLONEL STICKNEY: We have a part of the answer.

MR. WARD: I think he started to make an answer.

(The reporter read the answer.)

COLONEL STICKNEY: I believe his answer was interrupted, was it?

MR. AITKEN: Yes.

COLONEL STICKNEY: Do you have more?

INTERPRETER BELAONG: Yes.

A (Continued) Two of our companions were not tied, because they were carrying a load for the Japanese. I was later on set free, because I had a load approximately about six or more kilos.

Q When you say "later on I was set free as I had to carry a load for the Japanese," do you mean that you were freed from restraint, your arms were, so that you could use them to carry?

A They untied my hands and they let me carry their load.

Q Now, in what order did you proceed -- were you marching? I mean proceeding on foot.

A The way how we walked was that we were walking fast like the way those soldiers were doing.

Q Now, how were they grouped as you marched along?

A We were marching in single file by the bank.

Q The bank of what?

A I mean the bank of the river.

Q Who was in front?

A Ahead of us were Roman Dizon and Benito Mirivelles.

Q With how many soldiers?

A There were many soldiers walking after them.

Q If there were 100 soldiers or thereabouts in the patrol or party, what proportion of those soldiers were with Dizon and Mirivelles?

A I estimate those soldiers were more than a squad.

Q How many men, more or less approximately?

A I could not tell exactly how many, not even more or less, but all I can say is more than a squad.

Q How far behind that leading squad were you?

A I think our distance from the squad ahead of us is about from where I am up to that place (indicating that cement garage).

MR. WARD: Eighty yards, counsel?

MR. AITKEN: Eighty yards. I was just about to say the same.

Q Where was Gil Tanique?

A We were together. He was also carrying a load.

Q How many soldiers were with you and Tanique?

A We were behind the soldiers.

Q When you got to this Magbuyo place, what happened?

A While we were on our way going to Magbuyo, I told Gil, "Gil, we should escape because if we don't, we shall also be killed."

Q Then what happened?

A So then we threw our load and escaped.

Q You threw down your loads and escaped?

A Yes.

Q How did you escape? What did you do?

A As soon as we threw our load, we ran fast. When the Japanese noted our escape, because we were going into the forest, they fired many shots toward us.

Q Did they follow you?

A They didn't follow after us, but they just fired and fired and fired at us.

Q Now, after you got away a certain distance, did you turn around and observe what was happening?

A Yes, we turned around and looked towards them.

Q Could you see the first squad -- the squad that was ahead?

A Yes, we saw.

Q What did you see there?

A The first squad immediately surrounded our two companions and I think because they were mad for our having escaped -- that means I and Gil -- they killed them.

Q Where was Captain Nanjo at this time?

A Captain Nanjo was standing in this place and in front of him first was Dizon and with his saber he hacked him.

Q Where?

A At the back of the neck.

Q And what happened to Mirivelles?

A He also killed Mirivelles.

Q At the time these two men were killed, were they carrying packages themselves or were they tied?

A They were not carrying a load, but their hands were tied behind.

Q Now, after you made good your escape, where did you go?

A As soon as we made good our escape, I went on my way home, but before I reached my place, I passed the house of Natividad Dizon, in which I told her that her father was unfortunate, because he was killed by the Japanese. And then after that I also passed Bernandinas Llanos and told her that her husband was also killed by the Japanese.

MR. AITKEN: Your witness.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: (To interpreter) Will you remind the witness that he is still under oath?

(Interpreter Belaong translated to the witness.)

CROSS-EXAMINATION

BY MR. SCHAUER:

Q What time did you go to the Dizon evacuation place on the morning of the 4th of April 1945?

A We went there early in the morning.

Q About what time?

A We went to that place very early in the morning. As soon as we knew that there were Japanese we hid in the place of Roman Dizon.

Q About how many hours before the Japanese came to Dizon's house did you go there?

A We stayed in that place about one hour.

Q Was it daylight when you went to Dizon's house?

A It was about daybreak when we went to the evacuation place of Dizon to hide.

Q Did you go there alone?

A We were two who went to that place, that means, I and Gil Tanique, because at that time Gil Tanique was running, telling us that the Japanese were coming and so we proceeded to the place.

Q How long had you and Gil Tanique been together before you went to Dizon's house that morning?

A We went to the place of Dizon about daybreak, but I cannot tell you what time was that because we were afraid and we hurried up to the evacuation place of Roman Dizon.

MR. SCHAUER: May that answer be stricken as not responsive?

COLONEL STICKNEY: Will the reporter read the question and answer?

(Last question and answer read by reporter.)

COLONEL STICKNEY: I don't believe we need to strike that. I don't think it is responsive; however, it is not hurtful to the accused.

MR. SCHAUER: Yes.

COLONEL STICKNEY: Then, it is not something we must try to dismiss from our minds. That is the purpose of striking something.

MR. SCHAUER: I merely made the motion.

COLONEL STICKNEY: Yes, but I believe perhaps in the past we have done a lot of striking that was not necessary, and if it is not harmful to the accused, I think the point is you want an answer to your question?

MR. SCHAUER: That is correct, sir.

COLONEL STICKNEY: And, I believe the striking is not the solution.

MR. SCHAUER: Will the reporter read my last question, please? (Reporter read last question.)

MR. AITKEN: The prosecution would have no objection to a repetition of the question.

COLONEL STICKNEY: Of course not.

(Last question read by reporter.)

INTERPRETER BELAONG: Should I ask the question again?

COLONEL STICKNEY: He has not given an answer to that question.

A It was not very long when Gil Tanique passed me by my house, telling me "Let's go and hide, the Japanese are coming."

Q Were you at your house when you first saw Gil Tanique that morning?

A At that time I was near my house tying my carabao for pasturing when Gil came to my place telling me that we should go away to hide from the Japanese who were coming.

Q About how far was it from your house to the evacuation house of Dizon?

A It is near, it is about one-half kilometer.

Q Did you and Tanique then go right away to the evacuation house of Dizon?

A Yes, we ran immediately to the place because we were afraid.

Q Does a road go by your house?

A There was.

Q And did you go on that road to the evacuation house?

A Yes.

Q Is the evacuation house on the same road as the road that goes by your house?

A There were pathways leading to several places of direction and it was the practice at that time in order that you may not be located by the Japanese that there were several pathways leading to several places, and other pathways to hiding places.

Q And **there was** a pathway leading to the hiding place, that is the evacuation **house** of Dizon, was there not?

A Yes, there was three.

Q Does that pathway lead off of the road that goes by your house?

A There was a trail from that pathway of our house.

Q About how far did you go on the road that goes by your house before you turned off onto the pathway to Dizon's evacuation house?

A Only near from that road, I think it is about from the place where I am now, up to that thing, to that cement garage.

MR. SCHAUER: I believe that is the place we previously agreed on as being 80 yards.

MR. AITKEN: Yes, 80 yards.

MR. SCHAUER: May the record show that is approximately 80 yards by stipulation of counsel.

COLONEL STICKNEY: The record will so show.

Q And then how far is it from the point where you go off the road onto this trail to Dizon's house until you get to his house?

A I think it is around 15 meters.

Q Had you ever been to that evacuation house before the 4th of April 1945?

A That was only the time when we went there because we were trying to hide.

Q That was the only time then that you had ever been to that house, is that correct?

A Yes, that was the only time. We went to that place of Roman Dizon and four of us went there to hide.

Q Were Dizon and Mirivelles at the house when you and Tanique got there?

A Yes, they were there and we two were telling them that the Japanese were coming.

Q Did they say how long they had been there before you and Tanique got there?

A They told us.

Q What was that?

INTERPRETER BELAONG: That was the answer, "They told us."

Q What did they tell you as to how long they had been there before you and Tanique got there?

A I mean, that we came to that evacuation place of Roman Dizon together -- it means I, Tanique, Mirivelles and Dizon. At the time when we were running we passed by Mirivelles who was also tying his carabao for pasture, so that Mirivelles and Dizon followed us where we happened to go to Dizon's place.

Q Then, all four of you got to the evacuation house together at the same time?

A Yes.

Q After you and Tanique left your house you went to Mirivelles' house, is that correct?

A Yes, we passed him while he was tying his carabao.

Q Is his house on the way from your house to the evacuation house?

A Yes.

Q About how far is his place from your house?

A I think the distance of the house of Mirivelles from mine is about 100 meters.

Q After you and Tanique and Mirivelles left Mirivelles' place, did you then go to the evacuation house?

A Yes.

Q Where did you meet Dizon?

A Dizon was also tying his carabao for pasture.

Q And where was that?

A It was also near the vacant place in which we had our carabaos tied for pasturing.

Q This place that you call the evacuation house was also the place where Dizon lived, was it not?

A No, that was a place that was only used for evacuation.

Q Did Dizon live near there?

A It was quite near that place.

Q And you stopped at the place where he lived then, before you went to the evacuation house, is that not correct?

A No, I didn't. We three only saw him in the vacant place while he was tying his carabao, so we shouted, we called to him that the Japanese were coming and that we should hide, and he went with us.

Q Is this evacuation house surrounded by trees and high bushes?

A That place for evacuation was surrounded by bushes, small trees, shrubs, and bamboo groves, and it was a secluded place from the rest. However, the Japanese knew all those places.

Q Was the top of the house higher than the bushes or the trees that were around it?

A The top of the house was not higher than the bushes.

Q Was it the same type of house as the other houses in that area or locality?

A That house was lower than the rest.

Q By "lower" you mean it was not built up above the ground, as high as the ordinary house or the other houses around there?

A Yes.

Q Was the inside of that house as large as this room?

A Small.

Q After the four of you got there that morning, what did you do?

A We were sitting.

Q Were you just sitting, waiting to see whether the Japanese were going to come?

A While we were inside sitting, we were also looking out to see whether the Japanese were coming, because we were afraid that if we didn't make a look-out, the Japanese might surround us before we knew it.

Q The one that told you that the Japanese were coming was Tanique, is that right?

A It was Tanique.

Q Did Tanique say that the Japanese were looking for him?

A Gil Tanique told me these words: "Tiburcio, let's go away immediately. The Japanese are looking after me."

Q Did he say why the Japanese were looking for him?

A Yes, he told me.

Q Did he say whether the Japanese were looking for any of the other three of you?

A Yes.

COLONEL STICKNEY: I would like to ask at this time if the Visayan word that was used -- could it mean "me" or "us"? A minute ago when he said, "they are looking for me," could that word be translated as either "me" or "us," or must that be "me"?

INTERPRETER BELLAONG: "He" is only "me."

COLONEL STICKNEY: Thank you.

Q Which one of you first saw any Japanese coming near the evacuation house?

A All four of us saw them coming, because all four of us were there at that time.

Q Did they surround the house when they got there?

A Yes.

Q Did they order you and Mirivelles, Dizon, and Tanique to come out of the house?

A When we were surrounded four Japanese soldiers went up to our place where we were staying then, and immediately they tied our hands. After tying our hands they ordered us to go down and we went down. In the meantime the rest of the soldiers were there surrounding us.

Q Do you know who it was that ordered you to come out of the house?

A I do not know personally any of those four Japanese who tied our hands, but all I knew was that he was one of those four who ordered us.

Q Did he speak to you in Japanese?

A He was only making motions to make himself understood as to tell us to go down.

Q Now, how far was it from that evacuation house to the place where you and Tanique escaped?

A It was already far from the place where we were captured, going to Magbuyo. I think we had already walked more or less fifteen kilometers.

Q And that was toward Magbuyo, the place you call Magbuyo, is that correct?

A Yes.

COLONEL STICKNEY: The Commission will recess and will reconvene at 0830 on the 14th of October.

(The Commission adjourned at 1130 hours, to reconvene at 0830 hours, 14 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME VII

Pages 405 - 467, INCL.

MANILA, P. I.

DATE: 14 October 1946

COPY NO.:

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

15

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Tiburcio Jonota (Cont'd)		405 440			457

P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 14 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, and the assigned interpreters, and reporters, are present in court. At the close of the last session Tiburcio Jonota was undergoing cross-examination. Will you kindly remind the witness that he is proceeding under the oath previously administered?

(Witness reminded that he was proceeding under oath by Interpreter Belong.)

CROSS EXAMINATION (Continued)

BY MR. SCHAUER:

Q How far from Magbuyo was the place where you escaped from the Japanese?

A You mean to say from the place where we were caught going to Magbuyo?

Q No, I will rephrase the question. You testified here in court Saturday that it was about fifteen kilometers from the evacuation house of Dizon to the place where you escaped from the Japanese, that is correct, is it not?

A That is right.

Q Now, that was on the road to Magbuyo, was it not?

A Yes.

Q Now, from the point or the place where you escaped

from the Japanese, how far is it to Magbuyo?

MR. AITKEN: Just a moment, all right, I will withdraw that objection.

A I think it was about two kilometers to Magbuyo because of the bank that we had to pass I could not exactly tell you how far we were from that place.

Q Did this road that you took from the place where you were arrested to the place where you escaped follow along the banks of a river?

A There was a wide plain where we passed and then we also passed along the banks of the river.

Q About how great a distance did you follow along the banks of the river?

A Going along the banks of the river up and down I think it was around three or four kilometers.

Q The place where you say you escaped from the Japanese, was that along the bank of the river?

A Yes, it was along the bank of the river with a direction in going up.

Q What was the name of that river?

A That was called Magbuyo River.

Q How far was the road on which you were going from the river?

A We had to cross that river and from crossing we had to go up the banks. As you know, the road was following the bank of the river.

MAJOR FRITZ: Will the reporter please read that answer?

(Last answer read by reporter.)

Q Did the road cross the river?

A Yes, that road was crossing the river and had to make its continuation by going up the bank.

Q In other words, you had to go down through the water and then up the bank, is that it? There was no bridge across the river?

A That is right. We had after going down and up crossed the river, you have to go up the bank which road follows the banks of the river.

Q The road follows the bank along after you cross the river, is that right?

A That is right.

Q Now, as the road follows the bank of the river, is it right next to the river, or is it a little distance away from the river?

A It was near, because on the trail that we were following along we could see the flowing of the river.

Q How wide was this trail that you were travelling on?

A It is a trail in which a sled could pass through as well as man or carabao.

Q Do automobiles use that?

A If you pass on that way where we travelled an automobile could not pass.

Q How many meters would you say it was from the trail to the edge of the river at the point where you escaped from the Japanese?

A I think in my estimate, I think that it is about more or less 100 meters from the edge of the bank of the river.

Q Now, as you were walking along, was the river to your right or to your left?

A The river was on our right.

Q When you escaped from the Japanese did you go toward the river or away from it?

A When we escaped we crossed the river and there on the other side of the bank we hid.

Q So then when you left the line in which you were marching with the Japanese you went to your right, is that correct?

A We went to the right side.

Q Were there any trees between the trail and the edge of the river at the point where you escaped from the Japanese?

A Oh, yes, there were plenty of trees.

Q What kind of trees?

A Most of those trees were lauan.

Q About how tall are those lauan trees at that point?

A Some of them were as high as that chimney which I can see from the place where I am sitting, and others were lower than that.

MR. WARD: Fifty feet.

MR. AITKEN: Fifty to sixty feet, yes.

MR. SCHAUER: Fifty to sixty feet. We agree upon that distance, if the Commission please, between fifty and sixty feet as stipulated to by counsel.

Q Was there any grass between the trail and the bank of the river at the place where you escaped?

A Yes, there were a lot of grass, such as cogon, talahib, baho baho and others.

Q How tall was the grass?

A The cogon grass is about this tall (indicating).--

MR. WARD: Three feet?

MR. AITKEN: Three feet.

A (Cont'd) -- and also the talahib here was as tall as the height of the men.

MR. AITKEN: Approximately six feet.

Q And you say they were as tall as the height of the men -- I withdraw that. You say the talahib grass was about as tall as the height of a man. Would that be as tall as you are?

A The talahib were usually taller than my height.

Q Was there much talahib there at that time?

A Yes, plenty.

Q Besides the trees and the various types of grass which you have described, were there bushes?

A Yes, there were shrubs.

Q So that the place between the trail and the point where you escaped to the bank of the river was very heavily covered over with growth -- that is, trees, shrubs, and grass -- is that right?

A Yes, they were very heavily grown with cogon and then tigbao and at the upper part of the bank of the river are the tall trees such as lapan that I mentioned.

Q The bank of the river at the point where you went down at the time you escaped is how high above the level of the water?

A I think the height was around 50 meters.

Q How did you get down the bank of the river?

A Do you mean when we escaped?

Q Yes.

A At times we had to run, at times we had to crawl, because you had to be careful in going down.

Q Is the bank of the river at the point where you went down steep, and will you show us about how steep it is, indicating with your arm?

A (Demonstrating) The position of the bank of the river is like this.

MR. AITKEN: Indicating about forty-five degrees?

MR. WARD: About a forty-five degree angle.

MR. SCHAUER: That is satisfactory. Forty-five degrees.

COLONEL STICKNEY: I would like to ask the interpreter -- a few moments ago you started to say that the bank was one hundred and then you changed to fifty meters. Did the witness use "meters" or "yards" or "feet" or "arms length", or a description?

INTERPRETER GENOVES: He answered, "cincuenta metros" -- fifty meters.

COLONEL STICKNEY: He used the word "meters"?

INTERPRETER GENOVES: Yes, Sir.

Q In response to my last question you used both arms to indicate the slope of the bank of the river. By that you mean that each side of the river is about the same slope?

A Yes,

Q About how wide is the river itself at the point where you went down the bank?

A From the edge where we crossed up to the opposite edge, I think was about four meters.

Q Is there a lot of grass on the bank of the river? That is, at the point where you went down this bank to the river itself?

A Some shrubs were there.

Q Was the bank covered with grass?

A Yes, it was thickly covered with grass and shrubs.

Q Were there any trees?

A Yes, there were.

Q In other words, would you say that it was just as thickly covered with shrubs and trees and grass as the ground between the point where you escaped from the Japanese on the trail to the edge of the bank?

A Yes, there were many trees, shrubs and grasses.

Q After you crossed the river, did you go up the other side -- that is, up the other bank of the river?

A We went up the bank.

Q Now, is it also about 50 meters from the edge of the river to the top of the bank on the other side that you went up?

A Yes, about the same distance, because when we went down -- the distance from the bank of the river where we went down to the edge of the water was about the same distance as from the edge of the water to going up the bank of the river.

Q When you went up the bank on the other side of the river, did you go clear to the top of the bank?

A When we went up the bank, after crossing the river, we first stayed there and observed the Japanese soldiers.

Q Did you go clear to the top of the bank on the other side of the river?

A Yes, we went up clear to the other side of the bank of the river and then we could see them.

Q Now, when you got to the top of the other side of the bank of the river did you still keep on going?

A We first hid there.

Q Now, at the point where you say you hid, was there any grass?

A Yes, there were many.

Q In other words, there was a lot of grass there so that you could hide, was there not?

A At the place where we were hiding there were grasses, but at the same time if you look out you could also see.

Q How tall was the grass at that point?

A There were grasses that were also tall and low, but there are parts where you could look through at a comfortable height.

Q Were there trees where you were hiding?

A Yes.

Q Were there many trees?

A Many, because it was a mountain.

Q And there were also many trees on the banks of the river on both sides, is that correct?

A Yes, there were many trees.

Q The trail at the place where you escaped from the Japanese, is it curved at that place, or is it straight?

A That trail from the point where we escaped was straight going along the bank of the river.

Q Now, then, when you left that trail did you go directly to your right?

A Yes, we swerved to the right and with the purpose of going home to our place.

Q How far had you gone from the trail when you heard the first shot fired by the Japanese?

A It was not very far when they fired the first shot and we had to walk in a zigzag manner in order that we would not be hit by the bullets.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITIN: Will you remind the witness, please, that he still under oath?

(Interpreter Belaong reminded the witness that he was still under oath.)

Q How far had you gone from the trail when you heard the first shot fired by the Japanese?

A As we were running in a zig-zag way from the place where we escaped, I think our distance from that place of escape to the place where we were when we first heard the first shot was about thirty meters.

Q How long was it after you heard the first shot until you heard the second shot?

A When we heard the first shot other shots followed immediately because they were automatic rifles and fired.

Q Could you tell whether or not more than one Japanese soldier was shooting?

A More than one Japanese fired.

Q At that time when you were about thirty meters away and the Japanese started to fire, could you see which Japanese were firing?

A When we heard the first shot we did not see who fired it among them, because we were running in a zig-zag way.

Q Did you look back at any time?

A We did not look back, we ran all the way through.

Q Where were you when the Japanese quit firing?

A We were already on the other side of the bank of the river where we were hiding.

Q After you got to the bank on the other side of the river, did the Japanese continue to fire?

A They ceased firing. Maybe they thought that we were hit and killed.

Q After you got on the other side of the river and the Japanese quit firing, did you stay on the ground?

A At times we had to squat, at times, too, we had to lay flat on the ground, and at times we had to stoop and raise our head a little up and see towards the direction.

Q Do you know whether any of the Japanese soldiers attempted to follow you as you escaped into the shrubbery and grass on the side of the trail?

A We did not know, only we heard shots.

Q Did you see any of the Japanese soldiers before you got to the bank, that is, the first bank that you came to, after you left the trail?

A At the time when we were walking with them up to the time when we escaped going to the other side, we did not know whether there was a Japanese who followed after us. All that we knew later on was that we heard shots.

Q What did you do after the Japanese stopped firing?

A We still stayed there in our hiding place. We could see them on the other side standing in a group.

Q How many Japanese could you see from your hiding place?

A They were many. I estimate that they were about 100 or more.

Q And did you see Captain Nanjo at that time?

A Yes.

Q You understand English, do you not?

A No.

Q Didn't you understand that last question I asked you?

A I do not speak English but through some experience I know a very little. I understand very little.

Q You understood that last question that I asked you, did you not?

A That was only a slip of my mind, because I was rather anxious, but I really did not intend to answer it, nor I understood that question.

Q You gave the same answer to the interpreter as you gave after the interpreter asked the question, did you not?

A Because I forget.

Q When I asked you, "Did you see Captain Nanjo at that time?" you answered "Yes" before the interpreter asked you the question, did you not?

A Yes, I did, but that was a slip of the tongue.

Q So you understood my question then, did you not?

A I would explain that. It was really a slip of the tongue because I thought that you were the one who was already talking to me.

Q When I asked the question, "Did you see Captain Nanjo there at that time?" you understood me, did you not?

A I did not understand. As I say it was a slip of the tongue and I thought that you were talking to me.

Q You gave me the same answer as you gave the interpreter when he asked you the question, did you not?

MR. AITKIN: That has been asked and answered.

I object now. It is repetitious. I haven't any objection to his making an examination of this witness to find out how much he learned of English, because I know what he will find out, but he has asked that question now two or three times and he has got the same answer. I object to that for the reason that it is repetitious, that is all.

MR. SCHAUER: Here is the witness, I asked a question, the witness gives the answer before the interpreter has had a word. He gives the same answer that he gives when the interpreter subsequently asks him that question. So I asked the witness whether or not he understood the question and he completely evades the answer. I think at first he said he did not, then he says it was a slip of the tongue, then he says he did not understand the question. It is granted this is an immaterial question so far as the facts are concerned, but if he is not telling the truth with reference to what is a very small item such as this, he may not be telling the truth when it comes to much more significant testimony with regard to the case.

MR. AITKEN: The witness testified that from his experience he was able to understand a little English, and there is not any doubt about that. He probably can understand a few words, a little, and when you ask him the question as you asked the last question, he has answered it. And, you have asked again and he has answered it. I don't think it ought to be repeated.

MR. SCHAUER: He has not answered it. Whether he understands a little English or not is beside the point, I don't care about that, but when he tells me he does not

understand English and answers my question, I want a straightforward answer as to whether or not he understood the question. I asked him whether he understood English.

COLONEL STICKNEY: Has he not said "no"?

MR. SCHAUER: No, he keeps evading it. He said it was a slip of the tongue, or gives some other explanation. I would like a categorical "yes" or "no" answer.

COLONEL STICKNEY: Will the reporter read the last question?

(Last question read by reporter.)

COLONEL STICKNEY: Would you like to have an answer "yes" or "no" at the end of that?

MR. SCHAUER: Yes.

COLONEL STICKNEY: (To interpreter) Can you get a "yes" or "no" answer from him on that?

A Yes.

Q Now, then, when I asked you the question, "Did you see Captain Nanjo at that time," and you answered before the interpreter put the question to you, did you understand the question I asked you?

A Yes.

Q Where was Captain Nanjo when you say you saw him, with reference to the other Japanese soldiers?

A When I saw him he was in the middle of the other Japanese soldiers.

Q And there were Japanese soldiers all around him, is that right?

A Yes, some Japanese soldiers were around him, some

were scattered a little far away.

Q Where were Mirivelles and Dizon at that time?

A They were there surrounded by them.

Q Did you see Captain Nanjo's face at that time?

A Yes.

Q And what was Captain Nanjo saying at that time?

A I cannot understand because he was speaking in Japanese.

Q Did the Japanese shoot Mirivelles and Dizon at that time?

A They were not shot. They were killed by hacking with a saber and stabbed by the soldiers with bayonets.

Q Could you see which soldiers used the saber?

A Yes, I saw Captain Nanjo using the saber.

Q Now, at the time when you saw Captain Nanjo using the saber, where were Mirivelles and Dizon?

A They were in a position as Mirivelles behind Dizon, Dizon in front of Captain Nanjo, meaning that Dizon was behind Mirivelles and Captain Nanjo.

Q Were they in single file along the trail?

A This is the position in which they were in the trail: Captain Nanjo was facing towards Dizon and Mirivelles, while the rest of the soldiers were around them.

Q Was Captain Nanjo facing away from you?

A He was in a quite slanting position, facing towards me.

Q Were Dizon and Mirivelles facing towards you?

A They were facing towards us, the same as Captain Nanjo.

Q They were all looking at you, were they?

A No, because we were only the ones looking at them.

Q Supposing this represents the trail (putting diagram on piece of paper) and supposing this represents the place where you were hiding and watching the soldiers. Will you put on this trail where Nanjo was, where Mirivelles was, and where Dizon was.

A This is the sloping bank of the river (indicating). While I was at the position looking towards the direction where the Japanese and Captain Nanjo were, this was the position (indicating). Captain Nanjo in this position, with his side I can see, and next to him was Dizon. Behind Dizon was Mirivelles.

MR. AITKEN: Behind and to one side. This indicates behind and to one side (indicating on chart)?

INTERPRETER GENOVES: Yes, behind and to one side.

MR. SCHAUER: I might suggest inasmuch as we are using a rough diagram that the diagram be made part of the record, so that in reading the testimony it can be referred to. As soon as we have finished marking the paper, I am going to request leave of the Commission to introduce it as a defense exhibit. Have you any objection?

MR. AITKEN: I have no objection. It is part of his testimony. You will have to make a dozen copies for the record though.

MR. SCHAUER: So that the diagram will be clear, defense will stipulate that this "X" (indicating) will be designated as the witness' position at the time he observed.

MR. AITKEN: Yes, the hiding place.

MR. SCHAUER: And that the two lines on the opposite side of the paper represent the trail.

MR. AITKEN: The trail, and the witness testified, I think, the "X" represented the bank of the river.

MR. SCHAUER: Yes.

MR. AITKEN: He made that statement.

MR. SCHAUER: That will be the bank of the river on the opposite side.

MR. AITKEN: Yes.

COLONEL STICKNEY: Is it your desire to introduce this as a defense exhibit at this time?

MR. SCHAUER: Yes, sir.

COLONEL STICKNEY: Defense Exhibit A or Defense Exhibit B?

MR. SCHAUER: I believe this is the first Defense Exhibit, so it will be Exhibit A.

COLONEL STICKNEY: And you intend to have that reproduced, twelve copies, is that right?

MR. SCHAUER: Yes, that would have to be done.

MR. AITKEN: That would have to be done, if you want to get it in the record. I think it represents the second paper, doesn't it, Mr. Ward?

MR. WARD: That is correct. The first one, the map, has not been admitted into evidence yet.

COLONEL STICKNEY: It has not been given a letter as yet?

MR. SCHAUER: There has been no motion, I don't believe to actually introduce it into the record as an exhibit.

COLONEL STICKNEY: There has been no motion?

MR. SCHAUER: A statement was made whereby we indicated that we would like to do it at the time.

COLONEL STICKNEY: There being no objection by other members of the Commission, this sketch will be received in evidence marked Defense Exhibit A.

Q While you were in the position marked "X" and Captain Nanjo, Mirivelles and Dizon were in the positions indicated on Defense Exhibit A here, where were the other soldiers? Will you put a mark on that piece of paper indicated as Defense Exhibit A.

COLONEL STICKNEY: I think the statement just made by myself had better be expunged. Perhaps I was pushing you to get it in. When it is finally ready as a paper, then we will rule on its acceptance. You still haven't got your piece of paper ready?

MR. SCHAUER: There is still some work to be done on it.

COLONEL STICKNEY: I believe we had better expunge any previous comment accepting a part of the piece of paper.

MR. SCHAUER: I will reframe the question.

Q You have shown us where Captain Nanjo, Dizon and Mirivelles were at the time you were at the place marked "X," and looking back to the trail. Now, when these three men were in the positions you have indicated, where were the other soldiers?

A In this position (indicating on map) where were these three men, Captain Nanjo, Dizon and Mirivelles, here in this position as I have described, the Japanese soldiers were around, scattered in this position (indicating).

Q Now you have indicated --

MR. AITKEN: Just a moment. That is represented on this chart by a series of dots connected with lines, at the apex of which says, "Japanese soldiers."

Q Now you have indicated about five different dots, showing the positions of Japanese soldiers. Now between these dots there were many other soldiers, were there not?

A Yes, there were many Japanese.

Q Will you mark some more dots showing where these soldiers were?

A (Indicating with dots.) So many of them here, as I have indicated with several dots.

Q Now you have drawn a number of additional dots in there which represent Japanese soldiers who were there at that time, is that correct?

A As I have indicated, these several dots were not only the Japanese, but there were still many of them there.

Q In other words, there were many more Japanese soldiers within this cluster of dots that you have put in here than is actually shown on that piece of paper, is that correct?

A Yes.

Q And they were in the same places in this same area of dots that you have put on this piece of paper, is that right?

A Yes, some of them are here, and some of them are a little farther.

MR. SCHAUER: When he says, "Here," may the record show that he refers to the area of dots that has been placed on this paper, and when he says, "Some of them are away," he was indicating --

MR. AITKEN: Outside the perimeter.

MR. SCHAUER: Outside the perimeter of the dots.

COLONEL STICKNEY: And on one side or what?

MR. SCHAUER: Outside.

COLONEL STICKNEY: Outside here?

MR. SCHAUER: He said, "Some were in here," indicating the perimeter, and "Some are outside."

COLONEL STICKNEY: That is what I am asking -- and from all sides?

MR. SCHAUER: I will ask him that question.

COLONEL STICKNEY: That wasn't the motion I saw with his finger.

Q When you say there were soldiers outside of this area here, will you show us where they were?

A Not entirely very far from these dots which I have indicated. Some of them are a little farther away here -- here -- some are around (indicating).

MR. SCHAUER: That would indicate generally around the outside of the perimeter.

MR. AITKEN: That is right. I think it means it is a little circumscribed by the edge of the paper being close up to the edge of the trail. It may be a little embarrassing to him, I don't know.

MR. SCHAUER: At this time I would like to have this referred to as Defense Exhibit A for identification. I won't introduce it as part of the record at this time, but in case it is subsequently referred to, so that the record would be clear, I would like to refer to it as Defense Exhibit A for identification. And after it has been fully used and illustrated by the witness, then I will move that it be introduced in evidence as Defense Exhibit A. But I merely request that the Commission consider it as having been identified as Defense Exhibit A, so that it makes it easier for purposes of the record in referring to it later.

COLONEL STICKNEY: It may or may not be later introduced as evidence?

MR. SCHAUER: That is right. We are not introducing it as evidence. We are merely marking it for identification purposes.

COLONEL STICKNEY: Will you mark it?

MR. SCHAUER: Yes, will you mark it Defense Exhibit A?

(Interpreter Belaong marked the exhibit.)

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Interpreter Belaong reminded the witness that he was proceeding under oath.)

Q When you got to your hiding place and you say you saw Captain Nanjo, what is the first thing you saw him do?

MR. AITKEN: Talk up so that I can hear, please, talk up a little louder.

A The first time I saw Captain Nanjo he was standing there holding the saber over his right shoulder in oblique position.

Q That was the first thing that you saw him do is to raise the saber, is that correct?

A Yes.

Q Now, at the time you saw him raise the saber were Dizon and Mirivelles in the positions that you had indicated on this piece of paper? (Indicating Defense Exhibit A)

A Yes, in the position. But Dizon was immediately near him and next to him was Mirivelles in this position as I am touching you, maybe Dizon and the other interpreter next to you and Mirivelles.

Q Now, at that time --

COLONEL STICKNEY: I think the record at this time should show that the two interpreters are within four inches of each other. I understand he said the distance was as much as that distance there?

INTERPRETER GENOVES: Yes, Sir.

Q Now, Dizon was kneeling at that time, was he not?

A Yes, sir, he was kneeling.

MR. AITKEN: He was what?

A He was kneeling.

Q Did he have his shirt on at that time?

A Yes, he was dressed and his hands tied behind his back.

Q You saw his hands then tied behind his back, did you not?

A Yes.

Q Now, will you show us just in what position you saw Dizon at that time. You can get down off the stand and indicate. (Witness gets down off the stand and kneels in front of the interpreter's desk with his hands as if tied behind him.)

A He was in this position and kneeling with his hands tied behind his back and stooping.

Q Now, he had his hands behind his back, did he not?

A Yes.

Q And you say they were tied there, is that right?

A His hands were tied behind his back.

Q Could you see the rope or the string which tied his hands?

A Yes, I saw.

Q About how tall was Dizon?

A He was as tall as I am.

Q Would you stand up please?

(Witness stands up.)

MR. WARD: Five feet two inches?

MR. AITKEN: Five feet two inches, I guess. Stand up again.

(Witness standing.)

Oh, five feet two inches is okeh.

MR. SCHAUER: Approximately five feet two inches is stipulated to by the respective counsel.

Q You say he was about the same height as you then, is that right?

A Yes.

Q Now, while Dizon was kneeling with his hands tied behind his back, what was Mirivelles doing?

A At that time Mirivelles was still standing.

Q Where were his hands, that is Mirivelles's, as he was standing there?

A His hands were also tied behind his back.

Q You could see that they were tied, is that right?

A Yes.

Q And that is, you could see the rope which was holding them together, is that right?

A Yes, I saw.

Q After the Japanese left there, did you return to the trail from where you had escaped from the Japanese?

A No, after the Japanese killed them, they left the bodies there. While myself, I went home and passed the houses of Bernandina Llanes and Natividad Dizon and told them that as regards Bernandina Llanes, her husband was killed and --

MR. SCHAUER: I move that be stricken, that is not responsive to the question.

A (Cont'd) Natividad Dizon, her father was also killed.

MR. SCHAUER: I move that last portion be stricken, it is not at all responsive to the question asked.

COLONEL STICKNEY: I don't believe there is any need of striking in view of the fact it is a repetition of what has been heard before. And, even though it is repetitious, it is not going to be harmful to the accused that I can see.

Q Who was the first person that you went to see after you left there?

A You mean from the place where we hid?

Q Yes.

A I first passed the house of Natividad Dizon and told her that her father was already killed and later I proceeded to Bernandina Llanes's and told her also that her husband was already killed.

MR. SCHAUER: If the Commission please, I would like to request that the witness be instructed just to answer the questions I ask. I asked a simple question and we get a big long expose of everything that has happened after that. And, while it is true that it remains a part of the record and it is accumulative, yet the effect of all of this testimony is certainly of not any assistance to the defense. And accumulative testimony of this kind if read repeatedly is bound to prejudice the defendant. I would like a yes or no answer to the questions I ask.

COLONEL STICKNEY: Will the interpreter instruct the witness to try to answer the questions as given and keep out any extraneous matter that is not in answer to the question?

(Interpreter Genoves so reminded the witness.)

A Yes, Sir.

Q The person you first went to see after you left the hiding place on the bank of the river was Dizon's daughter, is that correct?

A Yes.

Q And then after you talked to her you went and told Mirivelles's wife what had happened, is that right?

A Yes.

Q Did Dizon's daughter go with you when you went to see Mirivelles's wife?

A Yes, she went with me.

Q Then where did you go after you left Mirivelles's house?

A After I had told the wife of Mirivelles, I went.

Q You did not then go back to the place from which you had escaped from the Japanese, is that right?

A We did not go there again.

Q Did you ever see Dizon after that time?

A Yes.

Q Where?

A I saw him at the sitio To-ong.

Q How far is the sitio To-ong from the place where you escaped from the Japanese?

A Sitio To-ong is approximately fifteen kilometers from the place where I escaped.

Q How long after you escaped was it before you saw Dizon at To-ong?

COLONEL STICKNEY: Do I understand "before you saw Dizon"?

MR. SCHAUER: Dizon, yes.

MR. AITKEN: Would you use the full name, please Roman Dizon?

MR. SCHAUER: Yes, I can reframe that question.

Q I am speaking now of Ramon Dizon, did you see him?

MR. AITKEN: Roman.

Q Roman Dizon, did you see him at the sitio of To-ong?

A Yes, I saw him there.

Q How long after the time when you escaped from the Japanese was it when you saw Roman Dizon at To-ong?

A I often saw him in that place, because he was a resident of that sitio.

MR. SCHAUER: That was not responsive to the question. If the Commission please, I would like the reporter to read that question back again.

(The reporter read the question.)

A After our escape I was not able to see him again. Only I saw him at the time we were running towards the hiding place.

MR. WARD: At this time I would be very interested in the conversation of the interpreters. The answer is not responsive after a long harangue in Visayan and I would like the interpreter to inform the Court what was the extent of that conversation.

COLONEL STICKNEY: Well, that is the usual procedure in getting an English question across to the witness and a Visayan answer back to the Court.

MR. WARD: This was an unusual situation.

COLONEL STICKNEY: You must know, having sat here for your second week now, and it is a standard procedure that particularly where we have things coming back through the interpreter which the defense wishes to be deleted from the record, we are very anxious that none of that appear in the record. And we must depend upon our sworn interpreters to get the question over to the witness and to get the answer back from the witness, and there will be many, many words used in Visayan back

and forth and back and forth, that we are not interested in.

MR. WARD: In this instance, I had a peculiar reason for asking for that conversation, because the answer came back as a contrary statement to what he formerly stated and it sounded like he was being argued with.

COLONEL STICKNEY: I am afraid we will have to trust our interpreters to perform the duties under oath and to give us the best answer they can obtain from the question being translated to the witness.

MR. SCHAUER: Will you repeat the last question and answer?

(The reporter read the last question and answer.)

Q What do you mean by saying then that you did see Roman Dizon at the sitio of To-ong?

A What do you mean? Will you please repeat the question?

(The reporter read the question.)

A I saw him as a resident of sitio To-ong.

Q That was after the time you escaped from the Japanese?

A As a resident of Sitio To-ong until the time we wanted to hide from the Japanese.

Q From the time that you escaped from the Japanese, as you have previously told us, did you ever again see Roman Dizon?

A How could I see him again because he was killed by the Japanese?

Q I will repeat the question. Did you ever see him

again after the time you escaped from the Japanese?

Please answer "yes" or "no."

A How could I see, because he was already killed?

COLONEL STICKNEY: When asked to give a "yes" or "no" answer, keep working until you get a "yes" or "no" answer.

(The interpreter repeated the question to the witness.)

A No, I never saw him again.

Q Did you ever see Benito Mirivelles again after the time when you escaped from the Japanese?

A No, I never saw him again.

Q Now, at the time when you were hiding on the other side of the river, did you hear Dizon say anything?

A I did not hear.

Q While you were hiding there did you hear Mirivelles say anything?

A No.

Q Did you hear anything said that you could understand at that time?

A No.

Q At the time when you were at the general position marked "X" watching the Japanese as indicated in Defense Exhibit "A", was Gil Tanique with you?

A Yes, we were together.

Q The two of you were together all the time after you escaped from the Japanese, is that right?

A Yes, we were together.

Q Which one of you started to escape first -- you or Tanique?

A Tanique was ahead to escape.

Q Did he say anything as he broke away?

A Yes.

Q What?

A He said, "Tiburcio, the Japanese are coming. Let us go away. Let us hide."

Q Now, I am referring now to the time when you were carrying this load for the Japanese along the trail next to the river and you escaped from them. Which of the two of you started to escape first -- you or Tanique?

A We escaped simultaneously after we have thrown the load we were carrying.

Q Who first threw down the load?

A We threw simultaneously and then ran away.

Q As you were walking along the trail were you and Tanique walking together?

A We were walking behind each other.

Q And you were talking to each other as you were walking along, were you not?

A Yes, we were talking to each other.

Q And while you were walking, you were talking to each other about escaping from the Japanese, were you not?

A Yes.

Q And the two of you agreed to escape, is that correct?

A Yes.

Q At the time you threw down your loads and started to escape, how close was the nearest Japanese soldier to you?

A (Pointing through the door of the courtroom) The nearest Japanese to us at the time when we escaped is at a

distance from the place where I am standing now to that automobile behind the barbed wire fence.

MR. WARD: Sixty yards? We have agreed that the truck was sixty yards sometime ago.

MR. AITKEN: Yes, I guess that is about the distance.

MR. SCHAUER: Approximately sixty yards has been agreed upon by counsel.

COLONEL STICKNEY: Sixty yards has been agreed between the defense and the prosecution?

MR. AITKEN: Sixty yards.

MR. SCHAUER: Yes.

Q So there was no other Japanese soldier closer to you than the distance from where you are sitting to that car you have pointed out to us?

A Yes.

Q Was the closest Japanese soldier in back of you or in front of you?

A He was ahead of us.

Q There were then no Japanese soldiers in back of you, is that right?

A Yes.

Q All of the Japanese soldiers then were in front of you, is that correct?

A Yes, ahead of us.

Q At the time you threw down your loads and started to run away, could you see Dizon and Mirivelles?

A Yes, I could still see them.

Q And they were a little distance ahead of you, is

that correct?

A Yes, they were ahead of us, because they were with the Japanese.

Q Did you see them at all from the time you left the road until the time you got to the hiding place on the other side of the river?

A Yes, I could still see them.

Q As you were running away from the trail to the other side of the river, you were not watching Dizon and Mirivelles, were you?

A Yes, because they were together with the Japanese.

Q Were you watching them all the time while you were running from the trail to the other side of the river?

A No, we looked at them at the time we arrived at the place where we hid.

Q So, the first time you saw them after you left the trail was when you got to the place where you hid, is that right?

A Yes.

Q And at that time they were in the positions that you have marked on this piece of paper (indicating Defense Exhibit "A")?

A Yes.

Q And it was at that time that you saw Captain Nanjo standing in front of them with his saber raised over his right shoulder?

A Yes.

Q And the other soldiers were scattered and grouped generally as you have previously indicated on this diagram, is that right?

A Yes.

Q What was Captain Nanjo wearing at that time?

A He was dressed as a Japanese soldier.

Q At that time could you see the sheath -- his saber sheath?

A Yes, I saw.

Q And where was it?

A I saw him holding the saber over his right shoulder in an oblique position, after he had drawn it from the sheath.

Q Did you see him draw it from the sheath?

A I saw him, because I was looking.

Q Did he draw it with his right hand or with his left hand?

A I was not able to note, but I saw him drawing the saber from the sheath.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 1300 hours.

(The Commission adjourned at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours,)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the interpreters and the reporters are all present in court.

At the end of the last session, prior to recess, the witness was undergoing cross-examination. Will you remind the witness that he is still proceeding under oath?

(Witness reminded that he was still proceeding under oath, by Interpreter Genoves.)

TIBURCIO JONOTA

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

CROSS-EXAMINATION (Cont'd)

BY MR. SCHAUER:

Q You say you saw Captain Nanjo draw his saber from the sheath and raise it over his right shoulder, then what did you see him do?

A That was what I saw.

Q That is all you saw, is that correct?

A Yes.

Q And when you saw Captain Nanjo with the saber raised --

COLONEL STICKNEY: Just a minute, please, will the reporter please read that last answer?

(Last answer read by reporter.)

MR. SCHAUER: I will withdraw the portion of the question which I was about to ask.

Q Then you went away, is that correct?

A Yes.

Q Isn't it a fact that the reason you escaped from the Japanese at the place where you did, was because there was enough grass and bushes and trees at that point so that you could hide from the Japanese?

A Yes.

Q Isn't it also a fact that there was enough undergrowth, trees, shrubbery, there at that place where you left the road so that you could hide from the Japanese

after you had gone but a few feet?

A Yes.

Q When you saw Captain Nanjo with the saber raised over his right shoulder, did you notice whether or not he had on boots at that time?

A He wore boots.

Q In other words, he was wearing boots right at that time, was he?

A Yes, he wore boots.

Q At the time you were arrested by the Japanese at Dizon's evacuation house, did you have any guns?

A No.

Q Did you have any other weapon such as a knife?

A No.

Q Did either Dizon or Tanique or Mirivelles have a gun at that time?

A Nobody among them had a gun.

Q When you were arrested the Japanese accused you of being a guerrilla, did they not?

A No, I was not a guerrilla.

MR. SCHAUER: Would you repeat the last question, again please.

(Last question read by the reporter.)

A No.

Q Didn't the Japanese accuse any of you of being guerrillas?

A No.

Q Did the Japanese accuse any of you of being a member of the USAFFE?

A No.

Q What did the Japanese say at the time that they arrested you at the evacuation house of Dizon?

A They asked me whether I was a member of any military organization, but I answered back that I was not, because I am already old and besides I did not even know how to operate a gun.

Q Did the Japanese soldiers also ask Tanique whether or not he was a member of any military organization?

A I did not know whether they asked Tanique. What I know is that we were civilians at that time.

Q While you were there with Tanique at the evacuation house of Dizon, did the Japanese ask Tanique if he was a member of any military organization?

A So far as I know he was not asked.

Q Did they ask either Mirivelles or Dizon whether they were members of any military organization?

A No.

Q Then, you are the only one that the Japanese asked as to whether or not you were a member of any military organization?

A I was the one who told them that we were not members of any military organization and that we were plain civilians.

Q Was that the only question that the Japanese asked you at that time?

A Yes.

Q They said nothing else to you then, did they?

A No other else. After that they gave sign that we will be proceeding up to the mountain.

Q Was the Japanese that spoke to you at Dizon's evacuation house, Captain Nanjo?

A No.

Q Was the person you call "Captain Nanjo" there at that time?

A Yes, he was there.

Q Did he say anything to you?

A He did not say anything to me.

Q Do you know whether he said anything at all at that time?

A No, he did not say anything at that time.

Q Had you ever seen Captain Nanjo before that day.

A Yes, I saw him together with some other Japanese companions.

Q How long before this day had you seen Captain Nanjo?

A I think I have met him three or four times before that time.

Q Have you ever seen him after that day, that is the day on which you were arrested by the Japanese and later escaped?

A You mean at the time we were on our way of escape?

Q Yes.

A Yes.

Q How many times?

A At the time we were arrested, I saw him because we were together .

Q After the day on which you were arrested, did you ever see Captain Nanjo?

A I saw him together with us.

Q I will put it this way. You say, you saw this person you call Captain Nanjo on the day that you were arrested, is that not correct?

A Yes, I saw him that day we were arrested.

Q Did you see him the next day?

A No more, that was the only day, we were arrested.

Q In other words, you never saw Captain Nanjo after that day?

A No more, because we ~~we~~ proceeded to the mountains.

Q At the time that you were arrested by the Japanese was there considerable fighting going on in that vicinity?

A No.

Q On the day that you were arrested by the Japanese, weren't the Americans already occupying Bacolod?

A Not yet.

Q Hadn't the Americans landed on Negros near Bacolod about a week before that?

A I think so.

Q And during this time, wasn't there a great deal of bombing in that vicinity by the Americans?

A Yes, there were a great deal of bombing.

Q And isn't it true that the Japanese forces were being pushed back by the Americans into the mountain areas away from the coast?

A Yes, ~~they~~ were forced back to the mountains.

Q Were these Japanese soldiers that were with you at the time that you were going toward Magbuyo all armed?

A Yes, they were all armed.

Q By April 4, 1945, hadn't the Americans taken Boroboro and Concepcion?

A Not yet.

Q How long after that was it before they took Concepcion and Boroboro?

MR. AITKEN: I will object to that as assuming a fact which he does not know anything about. It certainly is not in the evidence that they ever took Boroboro and Concepcion. These places were quite a distance away from the hinterland from Bacolod and I don't know whether we ever shoved troops into those places.

COLONEL STICKNEY: We don't want testimony from either counsel. You are making an objection now?

MR. AITKEN: Yes.

COLONEL STICKNEY: Will you state your ground for objection?

MR. AITKEN: I did on the ground he is assuming facts we know nothing about and not in the evidence.

MR. SCHAUER: I think that is certainly a matter on which the Commission can take judicial knowledge: the fact that the Americans did land on Negros and did ---

MR. AITKEN: I will admit that the American forces defeated the Japanese forces and did take centers of Japanese occupation.

MR. SCHAUER: I think that is a matter certainly on which the Commission can take judicial notice, a matter of common knowledge, and I don't think that is assuming a fact to exist other than what actually happened.

MR. AITKEN: I will admit they are general facts, but not when we shove the patrols into these various places we don't know anything about.

MR. WARD: I don't know whether Mr. Aitken was an authority a few moments ago, but in other cases and I think in this case the Commission has to take judicial knowledge of the fact in reviewing these Negros cases the Japanese headquarters formerly at Bacolod was changed to Concepcion on or about the 2nd, 3rd, or 4th of April, and that was the Japanese headquarters.

COLONEL STICKNEY: I think here again we are hearing testimony we shouldn't.

MR. WARD: This is judicial knowledge for the court.

COLONEL STICKNEY: It is no knowledge to me. Is this point terribly important now?

MR. AITKEN: May I withdraw the objection and avoid any further discussion?

COLONEL STICKNEY: Very well.

MR. AITKEN: Go ahead.

MR. SCHAUER: Does the reporter have the last question?

(The reporter who had taken the last question was not present in the courtroom.)

MR. SCHAUER: I will reframe the question.

Q On April 4, the day you say you were arrested by the Japanese, had the American forces already occupied Boroboro and Concepcion?

A Not yet.

MR. SCHAUER: I believe the next question is the one you originally objected to.

MR. AITKEN: That is all right. Go ahead.

Q How long after the day on which you were arrested was it before the American forces took over Boroboro and Concepcion?

A What I understand is that we were arrested before the date April 4, 1945.

Q How many days after April 4, 1945 was it when the American forces took Boroboro and Concepcion?

A I don't know how many days there were before or after April 4, 1945, when the Americans occupied Boroboro and Concepcion.

Q Had you seen any American soldiers on or before April 4, 1945?

A I was not able to see any.

Q Had you seen any members of the USAFFE or any guerrillas on or before April 4, 1945?

A I saw some members of the guerrilla.

Q How long before April 4, 1945 did you see them?

A I oftentimes see them pass near my house, but I don't know where they were going or where they came from.

Q Did they stop in at your house?

A No.

Q Did you ever talk to any of them?

A No.

Q Or did any of them talk to you?

A No. I was not able to talk to any of the members of the guerrilla.

Q How do you know they were guerrillas, the people you say passed your house?

A Because they had with them rifles.

Q Do you know whether or not Tanique was a member of the guerrillas?

A He was not a member of the guerrillas.

Q Was he ever a member of the USAFFE?

A No.

Q How long had you known Tanique before April 4, 1945?

A We knew each other a long time before.

Q Do you know whether or not Tanique was a member of the USAFFE?

A He was not a member.

Q Didn't Tanique tell you on the day that you were arrested and just before the Japanese came that the Japanese were looking for him because he was a guerrilla?

A He did not tell me that the Japanese were looking for him, because he was a member of the guerrilla. What

he told me was that, "Tiburcio, let's go and hide, because there are Japanese coming."

Q Didn't Tanique tell you that he knew why the Japanese were looking for him?

A He did not tell me.

Q Didn't you testify the other day that Tanique told you that he knew why the Japanese were looking for him?

A Yes, because while he was running towards us he told us that they were Japanese, but I did not know whether the Japanese were looking for him.

MR. SCHAUER: If the Commission please, that is not responsive to the question I asked. I would like the reporter to repeat the question. It is a question which the witness can answer either "yes" or "no."

(The reporter read the question.)

COLONEL STICKNEY: Let us get a "yes" or "no" answer for the defense here.

A Yes.

Q Now, did Tanique tell you why the Japanese were looking for him?

A That is all he told me: "Tiburcio, the Japanese are coming. Let's go and hide."

Q Then he did not tell you -- I mean Tanique did not tell you why the Japanese were looking for him?

A He did not tell me.

Q At the time when the Japanese arrested you, there was a great deal of guerrilla activity in that general region, was there not?

A Yes.

Q Were there many USAFFE around there at that time?

A Yes.

Q Were Mirivelles and Dizon carrying something as they were walking along this trail before you escaped?

A They were not carrying any load with them.

Q You testified the other day that the Japanese killed Mirivelles and Dizon because they were mad after you had escaped, is that right?

MR. AITKEN: Just a moment. I object to that as assuming something that is not in the evidence. I don't think it is intentional, but I think the witness testified he said he thought they killed them, because of that escape and he thought they were angry.

MR. SCHAUER: That is right.

MR. AITKEN: I didn't think there was anything not inadvertent.

MR. SCHAUER: No, I will reframe the question.

Q The other day you told us that you thought the Japanese had killed Mirivelles and Dizon because they were mad after you and Tanique had succeeded in escaping. Isn't that correct?

A Yes.

Q That is just your opinion, is it not?

A What do you mean?

Q You just thought that was the reason why they killed them?

A That is what I thought.

Q They could have been killed, could they not, because they also tried to escape after you had escaped?

MR. AITKEN: That is objected to, first, as calling for a conclusion of the witness; secondly, as being a sort of argument with the witness, but principally the objection is based on the fact that it merely calls for a conclusion of the witness.

MR. SCHAUER: There is testimony in the record by this witness on direct examination wherein he gave his opinion that the reason they were killed was because the Japanese were mad on account of the successful escape of himself and Tanique. That is the testimony that he himself brought out on direct examination, and I would like to show that it could have been for other reasons. I don't say it was and I am not trying to elicit information from this witness directly on this point, but I think I am entitled to ask this witness whether or not it could have been for another reason. It makes a lot of difference in a case of this kind whether they were killed because they were trying to escape or whether they were killed merely because the soldiers became angry after what had happened.

COLONEL STICKNEY: You don't expect to find out from this witness why they were killed?

MR. SCHAUER: I don't expect to. I might possibly, but I don't -- frankly, I don't expect to. We may possibly bring it out, but I have no way of knowing unless I am allowed to ask a question.

MR. AITKEN: The point I am bringing out is that the witness can't possibly know. He was **some distance** away when they killed these other men. How does he know

why they killed them or what motive prompted them to kill these men? It is calling for a guess or a conclusion of the witness.

MR. SCHAUER: The prosecution called for that conclusion when the testimony on direct examination was put in.

MR. AITKEN: I don't know when he made that answer. I didn't ask him why they killed them. It couldn't have been on direct examination. He said he thought they killed them because they were mad at him escaping, which was a natural conclusion, but even that was not a proper answer in the record and could have been stricken out as calling for a conclusion by the witness.

COLONEL STICKNEY: The objection is not sustained. The question can be answered.

(The reporter read the question.)

A Maybe, because they might escape and they were killed.

Q Did you and Tanique come up here from Negros together?

A Yes.

Q And you are staying together down here at the place where the other witnesses are staying, are you not?

A Yes, we are together.

Q You see Tanique every day, do you not?

A Yes.

Q And you have talked to him everyday since you have been here, have you not?

A Yes, we talk concerning the thing when we were

arrested by the Japanese.

Q And the two of you ---

COLONEL STICKNEY: The Commission will take
a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Witness reminded that he was proceeding under oath by Interpreter Genoves.)

Q You say you and Tanique have discussed this case between the two of you, is that right?

A Yes, we talked concerning our capture by the Japanese.

Q And you have talked with the other witnesses that are testifying in this case, have you not?

A No.

Q You have talked ^{with} none of the other witnesses, then, have you not?

A No, I only and Tanique.

Q Do you know Primitiva --

COLONEL STICKNEY: Just a minute, I would like to get that answer.

(Last answer read by reporter.)

Q Do you know Primitiva Casabuena?

A Yes, I know her. She is from Granada.

Q How long have you known her?

A I think we have come to know each other for three months.

Q And you came up on the same boat with her, did you not?

A Yes, we were together.

Q And you have talked to her, have you not?

A We were talking about our situation during the Japanese occupation.

Q And you talked about Captain Nanjo, did you not?

A Yes.

Q And about this case here in which you are testifying?

A No, we did not talk concerning these things which happened to us.

MR. AITKEN: I can't hear you.

INTERPRETER GENOVES: Which happened to us.

Q So that you have not talked to her at all about this case, is that right?

A I had no occasion to talk with her about this case. Only, I talked with Tanique concerning the torture we received when we were captured by the Japanese.

Q On what day did you leave Negros to come to Manila?

A We were taken from Negros to Manila on September 7.

Q And you have seen Primitiva Casabuena almost every day since September 7th, then, have you not?

A Yes, that is true.

Q Do you know Natividad Dizon Loreda?

A Yes, I know her.

Q She is up here with you, is she not?

A Yes.

Q And she also came up here with you on the same boat which left Negros on September 7, 1945?

A Yes.

Q How long have you known her?

A I knew her a long time ago because she is my niece.

Q And you have talked to her quite frequently, have you not, since the 7th of September?

A Yes, we talked --

Q And you have discussed this case --

A Often.

MR. SCHAUER: I am sorry, I did not know the answer was not finished. Would you read that answer back to me, please?

(Reporter read required answer.)

Q And you have talked about Captain Nanjo a good deal, haven't you?

A We do not talk often about Captain Nanjo. We often talk concerning our situation at Negros.

Q When you say you talked about your situation at Negros, you mean you talked about what happened on the 4th of April 1945, is that right?

A Yes.

Q And you have also talked about what happened on the 4th of April 1945, with Tanique, have you not?

A Yes.

Q And the three of you, Natividad Dizon Loreda, Tanique and yourself have discussed what happened on the 4th of April 1945, have you not?

A Yes, we talked of it.

Q Do you know Demetria Villas?

A I know her also.

Q Do you know Cesar Lamio?

A Yes.

Q Do you know Purificacion Salon?

A Yes.

Q Do you know Lauro Mariano?

A I do not know him.

Q Do you know Romana Ballesteros?

A Yes, I know him.

Q You have talked with all of these people except Lauro Mariano, since the 7th of September, have you not?

A Sometimes we talk, sometimes not.

Q Well, they have talked about Captain Nanjo, have they not?

A Yes, they also talked.

MR. SCHAUER: I believe that is all.

COLONEL STICKNEY: Do you mean so far as the defense is concerned?

MR. SCHAUER: Yes.

COLONEL STICKNEY: Anything from the prosecution?

MR. AITKEN: I think not, just a second. Nothing further.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I would like to ask if these men who were killed, how well you knew them, Roman Dizon, how well did you know him?

I would like to change the question -- say, just before the 4th of April 1945, how often did you used to see this man Dizon?

A Sir, I often saw him before that date.

Q How often just before that day?

A I saw him often.

Q How often?

A I saw him almost every day.

Q What did he do?

A He was gathering tuba and he worked a little farming.

Q Well, did he belong to any military organization at that time, to your knowledge?

A No.

Q Did he receive any trial, to your knowledge?

A No.

Q About that time, or just prior to then, how often did you used to see Benito Mirivelles?

A I saw him often, as I did see the other. I mean, Roman Dizon.

Q Did you see him almost every day?

A Yes, sir, I saw him almost every day.

Q And what did he do?

A He did a little farming also.

Q Did he belong to any military organization, to your knowledge?

INTERPRETER GENOVES: Please, may I know the last answer?

(Last answer read by reporter.)

INTERPRETER GENOVES: "Gathered tuba. He did a little farming also gathered tuba."

COLONEL STICKNEY: I think I asked a question. Will the reporter please read it?

(Desired question read by reporter.)

A No.

Q Did he receive any trial, to your knowledge?

A No.

Q In answer to a question by the defense counsel, you said that since you have been up here you and Gil Tanique have talked about the torture, is that right?

A Yes.

Q What do you mean by that?

MR. WARD: Objection.

MR. SCHAUER: We will object on the grounds that that particular charge, which is the first portion of Specification 5, was not, or at least, has been temporarily abandoned by the prosecution. That, as you will note, that

particular Specification, contains two allegations. First, that there was unlawful mistreatment and torture of these people. Secondly, that two of the people were killed. The prosecution after the discussion that we had a few days ago, at least temporarily abandoned the first portion of that Specification, because of the way in which the location was specified. In other words, it was first "Cabanatuan River" and subsequently amended to read "Cabatangan River," and after that it was discovered that there was no such river as either the Cabanatuan or Cabatangan River. In response to objections by the defense, which, I believe, were sustained by the Commission, the prosecution abandoned any further efforts at that time to establish a case under the first section of Specification 5.

COLONEL STICKNEY: The information about the torture seems to have been, of course, the only information gotten from a long series of questions about who talked with who and about what by the defense.

MR. SCHAUER: Yes, but that question or that statement about the tortures was one of the numerous statements made by the witness which were not responsive to the question asked and I did nothing about it. I did not pursue, if the Commission will recollect, any line of questioning on mistreatment or torture. I did not ask for any information about it, and when the witness did make mention of it, which was not in response to any question asked, I did not pursue any line of questioning on that subject. In addition to that, the testimony as given by the witness was in response to the desire to know the various witnesses and the names were given. I said something about tortures, they talked about tortures, but he did not specify as to any date or whether that torture

concerned himself or others of this group of people. Therefore, there would be no foundation and would be completely immaterial, which is a further objection.

COLONEL STICKNEY: That is what I am trying to find out about. You have the torture in the case -- now, what torture?

MR. SCHAUER: That torture was not part of the cross-examination. That was a statement that the Japanese tortured, and it was not set down as to him, but as to what happened to the various witnesses, and it was not responsive.

COLONEL STICKNEY: Anything from the prosecution?

MR. AITKEN: I would like to say this, that I am inclined to agree with the defense counsel in this particular.

I think the Commission in going into the question of torture, if it had to do with the torture of these people, the Cabatangan River prior to these killings, I think the Commission might be in error.

COLONEL STICKNEY: Very well, I will withdraw my question.

Q Do you know where the Cabatangan River is?

A I do not know where Cabatangan is.

Q San Juan, do you know where San Juan is?

A I do not know this.

Q If Captain Nanjo were in this courtroom, would you be able to point him out?

A Yes.

Q Will you look around the courtroom and see if you can find him, and if you can, point him out.

A Shall I go and point him out, sir?

Q Yes, go right ahead.

(Witness leaves the witness stand and goes over to the table of the defendant.)

A This is Captain Nanjo.

COLONEL STICKNEY: The record will show that the witness rose, walked over to the bench and pointed to the accused.

MR. SCHAUER: Yes, it is so stipulated by the defense.

COLONEL STICKNEY: What is that?

MR. SCHAUER: I say, the defense will so stipulate that that is what the witness did.

Q Do you know why he arrested you?

A I do not know the reason why they arrested me.

Q Do you know the purpose of the expedition which he was leading on the 4th of April 1945?

A I do not know the purpose of that expedition. What I knew was that on their way if they came across civilians, they captured them and killed them.

Q To your knowledge, how many?

MR. WARD: I object to that answer. It is not responsive to the question and it is injurious to the defendant in this instance. We move to strike out.

COLONEL STICKNEY: The answer gives me part of the picture that I am after.

MR. WARD: But it is certainly not responsive and for that reason we wish it struck, as it is objectionable on that ground. Certainly that isn't the purpose of the expedition. That may have been some of the things they did which we do not know, which again is in that list of questions we wish to have stricken from the record.

COLONEL STICKNEY: The motion to strike is not sustained.

Q How many civilians, to your knowledge, did the expedition capture?

MR. WARD: Objection again on the ground that there is no foundation for that laid. Where? That is the purpose of this great line of objections that have been sustained by the Commission itself, and a few moments ago the defense counsel also stipulated that that line should be abandoned.

COLONEL STICKNEY: Frankly, I thought I knew the answer and I thought the answer would be in no way prejudicial to the defense. I withdraw the question.

Q To your knowledge, how many persons did this expedition kill?

MR. WARD: Objection again. The same grounds, sir. It is almost the same question and unless

there is some foundation laid as to place, it certainly is objectionable, because the Specifications do not charge any other place but Magbuyo. If the question were so worded, "At Magbuyo how many people did this expedition kill," there certainly would be no objection from the defense.

COLONEL STICKNEY: I withdraw that question.

Q While you were with the expedition, how many prisoners did they have?

A We were four. We were Tanique ---

COLONEL STICKNEY: That is my answer -- four.

Q Now, how many were killed?

A Two.

Q Where were you when you first saw the expedition?

A The first time I was with the expedition was at sitio To-ong.

Q Where is sitio To-ong?

A Sitio To-ong is east of Boroboro.

Q How far east of Boroboro?

A I think from Boroboro to sitio To-ong is two kilometers.

Q Of what does sitio To-ong consist?

A Sitio To-ong is a plantation place consisting of coconut groves, banana plants, and vegetation.

Q Boroboro is the end of the railroad from Bacolod on the road between Granada and Concepcion, is that correct?

A Yes. The end of the railroad.

Q And if you are going from the railroad station in

Boroboro to To-ong, do you proceed into Concepcion and then out again to get there?

A If I were going to To-ong from Bacolod, I have to pass the railway from Bacolod to Boroboro. I could also take the way from Boroboro passing Concepcion, but that will be a long way because from Boroboro going to To-ong there is a way direct.

Q There is a road directly to the east, is that correct?

A Yes, direct towards the mountains.

Q To the east?

A Yes, to the place where the sun rises.

Q And how far is it along that road to To-ong?

A From where, sir?

Q From the railroad station at Boroboro?

A Approximately two kilometers.

Q Now, how far is it from To-ong to the evacuation place of Dizon?

A (Pointing) The distance from sitio To-ong to the evacuation place of Dizon is about the distance from the place where I am sitting now to those chimneys that are throwing smoke.

MR. WARD: It has been stipulated it is 150 yards.

MR. AITKEN: That is right.

Q Going from Boroboro to Concepcion you cross a large river, is that correct?

A Yes.

Q Do you know the name of that river?

A Yes, sir. Matab-ang.

Q Now, does the Magbuyo River run into the Matab-ang River?

A No. Magbuyo River empties into Imbang.

Q Where does the Imbang River empty?

A Imbang River empties at the sea.

Q The Imbang River empties into the Matab-ang River?

A No.

MR. AITKEN: His answer, if the Commission please, perhaps you didn't hear, he said, "Imbang River empties into the sea."

COLONEL STICKNEY: Into the sea?

MR. AITKEN: I thought perhaps you didn't hear it.

COLONEL STICKNEY: I thought he said, "Concepcion."

Q From the evacuation place to the place where you made your escape, you marched generally in what direction?

A We were going eastward.

Q Is sitio To-ong on the bank of the Matab-ang River?

A To-ong being a wide place of plantation extends to the bank of the Matab-ang River.

Q Is sitio To-ong on the south bank of the Matab-ang River or on the north bank of the Matab-ang River?

A Sitio To-ong is south of the bank of the Matab-ang River.

Q Was the evacuation place of Dizon also on the south bank of the Matab-ang River?

A Yes.

Q When you left the evacuation place of Dizon on your march as a prisoner, will you describe the country through which you passed?

A I seem not to recall, sir, because at that time I was very afraid.

Q How far did you march?

A Do you mean, sir, from the place where I was captured to where?

Q From the evacuation place of Dizon to the place where you escaped.

A Shall I understand you, sir, the distance from the place where I was captured in the evacuation place of Dizon to the place where I escaped?

Q I want to know how far you marched from the time you were apprehended at Dizon's evacuation place until you escaped from the expedition which had you a prisoner.

A Approximately fifteen kilometers.

Q In what direction?

A Going up eastward.

Q You have described a river with banks at an angle of forty-five degrees at the point where you escaped.

What was the name of that river?

A In the place where I escaped the river was called Magbuyo.

Q And that river empties into what river?

A That Magbuyo River empties into Imbang River.

Q How do you spell that?

INTERPRETER GENOVES: I-m-b-a-n-g.

COLONEL STICKNEY: The Commission will adjourn
and will reconvene at 0830 hours, 15 October.

(The Commission adjourned at 1445 hours to
reconvene at 0830 hours, 15 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

v9

MASAO NANJO

PUBLIC TRIAL

VOLUME VIII

Pages 468 - 524, INCL.

MANILA, P.I.

DATE: 15 October 1946

COPY NO: 1

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CERTIFICATION

**THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by**

**Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;**

**Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;**

**Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and**

**Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,**

**in the trial of the case of the United States of America
against Masao NANJO.**

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P.I.
15 October 1946

Met, pursuant to adjournment, at 0830 hours.

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COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

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FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

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BEFORE A
MILITARY COMMISSION
convened by the
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vs

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15 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CE

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d Lt. HAKUZO NITTA	Japanese
T/3 TAKEO SAITO	Japanese
FILOMENA ZOSA	Ilongo (Visayan)
PEDRO GENOVES	Ilongo (Visayan)
MACARIO E. BELAONG	Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

/dsh

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Tiburcio Jonota (Cont'd)				490	469
				499	507
				514	
Gil Tanique	517	522			
	(Cont'd.)				

P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 15 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the official interpreters and the reporter are all present in court.

Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Belaong so reminded the witness.)

MR. AITKEN: At the end of the last session, I believe the witness was undergoing examination by the Commission.

TIBURCIO JONOTA

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

EXAMINATION BY THE COMMISSION (Cont'd)

BY COLONEL STICKNEY:

Q This place where you were captured, I think you told me yesterday, it is near the bank of what river?

A That was called Imbang, that river was coming from Magbuyo.

COLONEL STICKNEY: I don't know that you understood my question.

MR. AITKEN: The word was captured, he was asked about the place where he was captured.

COLONEL STICKNEY: I will ask my question over again.

Q The place where you, Tanique, Mirivelles, and Dizon were apprehended was near the bank of what river?

A That was not the bank of the river, that was the shores of To-ong.

COLONEL STICKNEY: The shore of what?

INTERPRETER BELAONG: The shores of To-ong.

COLONEL STICKNEY: Will the reporter read that to me, please?

(Last answer read by reporter.)

Q What do you mean by the "shores of To-ong"?

MR. AITKEN: Just one moment, please, I think the Commission is in error. The word was not "shores" it was "source of To-ong".

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shores of To-ong.

COLONEL STICKNEY: The shore of what?

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think the Commission is in error. The word was not
"shores" it was "source of To-ong".

INTERPRETER BELAONG: Source.

COLONEL STICKNEY: I will withdraw that question.

Q To-ong Sitio is on the bank of what river, near the bank of what river?

A On one side is Matab-ang, on the other side is To-ong.

Q By use of the compass on which side of Sitio To-ong is Matab-ang River?

A If this is the place where the sun rises, Matab-ang is here on my left (indicating).

INTERPRETER BELAONG: It seems to indicate north.

Q And is there also a To-ong River?

A That is a brook.

Q And which side of To-ong Sitio is To-ong Brook?

A The whole Sitio of To-ong comprises also the brook, the brook called To-ong.

Q Do I understand that Sitio To-ong is an inhabited place with a group of buildings?

A There are houses there.

Q Is To-ong also a mountain?

A Sitio of To-ong is rice fields and plantations.

Q Is there a mountain To-ong?

A There is none.

Q Now, when you left your evacuation place which was south of the Matab-ang River and marched fifteen kilometers generally eastward, did you cross to the north side of the Matab-ang River?

A We were taking a direction between the east and the north passing vacant land.

Q Passing vacant land?

A Passing vacant land.

Q And did you cross from the south bank of the Matab-ang River to the north bank of the Matab-ang River?

A Yes, we did cross Matab-ang River going in a direction between the east and the north.

Q After you crossed to the north side of the Matab-ang River, did you stay on that north bank the remainder of your march?

A We did not cross that river any more.

Q In what direction did the Imbang River flow?

A The Imbang River flows toward the west.

Q The Imbang?

INTERPRETER BELAONG: The Imbang River.

Q Where does the Imbang River hit the coast with relation to Bacolod, Talisay, Silay?

A The Imbang River empties in the shores under the jurisdiction of Talisay.

MR. AITKEN: I have a map, if it will help you any, I will let you have it.

COLONEL STICKNEY: I don't believe we need it.

Q Does it enter the coast south or north of Talisay?

A It goes in this direction (indicating).

INTERPRETER BELAONG: Indicated by the witness on the north.

Q Does it empty into the sea south or north of the City of Silay?

A That river flows towards the sea south of Silay.

Q How far from To-ong did you go on the south bank of the Matab-ang River before you crossed to the north bank of the Matab-ang River?

A We walked about one kilometer before we crossed at Matab-ang.

Q After you crossed the Matab-ang River, how far did you go before you reached the Magbuyo River?

A We walked about fourteen kilometers before we reached Magbuyo.

Q My question was before you reached Magbuyo River.

A We walked about fourteen kilometers.

Q Now, I want to be sure, fourteen kilometers after you crossed the Matab-ang River until you reached the Magbuyo River?

A We walked fourteen kilometers before we reached Magbuyo River after crossing Matab-ang River.

Q Now, did you get to the Imbang River on that march?

A Yes, we crossed Imbang River because in Imbang River that was also the place where Magbuyo River empties.

Q And after you walked fourteen kilometers from the Matab-ang crossing, do I understand you arrived at the junction of the Magbuyo and the Imbang Rivers?

A We reached the place going in the direction of Magbuyo.

Q After you crossed Matabang River and marched fourteen kilometers, did you reach the Imbang River, the Magbuyo River, or both rivers?

A We reached the river Imbang.

Q And upon reaching it, did you cross it or follow it downstream or upstream?

A When we reached that place we crossed the Imbang River.

Q When you crossed the Imbang River at that point, how far were you from the place where you later escaped?

A The distance from after crossing Imbang was about one-half kilometer.

Q How far from the place where you crossed the Imbang River does the Magbuyo River empty into the Imbang River?

A From the place where we escaped up to the place where Magbuyo River empties into Imbang, the distance is about three-and-a-half kilometers.

Q And you escaped at a point on the Magbuyo River, did you not?

A At that point where we escaped that place was also in the river of either Imbang or Magbuyo.

Q Do you know which river it was?

A That was the river Magbuyo.

Q Are you acquainted with the road running from Concepcion to Dos Hermanos?

A I do not know.

Q Are you acquainted with the half of that road at the Concepcion end?

A From where?

Q The road going from Concepcion toward Dos Hermanos, are you acquainted with the southern end of that road -- the Concepcion end?

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A From where?

Q The road going from Concepcion toward Dos Hermanos, are you acquainted with the southern end of that road -- the Concepcion end?

A I do not know that road.

BY COLONEL MacKINTOSH:

Q At the evacuation place of Roman Dizon, was there a house or was it just a place surrounded by shrubbery and grasses?

A It was a shed.

Q Were you inside the shed or outside when you were captured?

A We were inside.

Q Referring to Defense Exhibit A, how far is it from the place you have marked "X" as your hiding place to the place where Captain Nanjo was?

A I could not tell how far was Captain Nanjo because Japanese soldiers surrounded us at the time of our arrest.

COLONEL MacKINTOSH: He misunderstood the question. I will withdraw it and rephrase it.

Q After you had escaped from the Japanese and had crossed the river and had stopped and looked back from your hiding place, how far away were you from Captain Nanjo at the time that he had the sword up over his shoulder?

A The distance was about the place from where I am now up to that highest point of that building where there are wood construction (pointing through the door of the courtroom).

MR. AITKEN: About 120 yards. I would say it is not over 120 yards.

MR. WARD: Defense says it is about 135 to 140. It was stipulated that the stacks that we have referred to continually are 150 yards.

MR. AITKEN: I think 125 was stipulated on the stacks. I am not sure, but I think it was.

MR. WARD: 150.

COLONEL STICKNEY: What is the estimate of the distance for the defense?

MR. WARD: 135 to 140.

COLONEL STICKNEY: What is the estimate of the prosecution?

MR. AITKEN: 120.

MR. WARD: These are the same stacks being referred to by the prosecutor all this time.

COLONEL STICKNEY: We are not talking about stacks; we are talking about the distance involved here. What do you say it is?

MR. WARD: 135 to 140.

COLONEL STICKNEY: And the prosecutor?

MR. AITKEN: Not a foot over 120.

COLONEL STICKNEY: These two estimates will appear in the record.

Q Was the place where you were hiding higher or lower than the place where Captain Nanjo was at this time?

A Yes, the place where we were hiding was on a higher plane than the place where Captain Nanjo was.

Q Were there large trees or shrubs around the place where Captain Nanjo was?

A There were cogon, shrubs and other grasses, but they were not very high.

Q When you saw Captain Nanjo with the sword raised over his shoulder, could you see all of him or could you see him from the waist up or how much of him could you see?

A As he was standing, I could see up to this part (indicating). I could see him up to this place.

MR. WARD: Just above the knee.

MR. AITKEN: Yes. Does that answer mean he could see him from just above the knee up?

INTERPRETER BELAONG: Yes.

MR. AITKEN: It is not clear in the record.

MR. SCHAUER: I don't think it is clear yet.

I wish the witness could answer that. I have the impression he could see him from that portion down.

COLONEL STICKNEY: The translation was apparently a little ambiguous. Will the reporter read the translation?

(The reporter read the answer.)

A I could see him from the head down to this part (indicating).

COLONEL STICKNEY: Indicating a point just above the knee?

INTERPRETER BELAONG: A point just above the knee.

Q Did you see Captain Nanjo do anything with the sword right after he had it up over his shoulder?

A From the time when I saw him raise his sword over his shoulder, I saw him hacking Dizon.

Q Where did he strike him?

A He hit him above the neck -- at the back of the neck.

Q How many times?

A Once. He had a wound here (indicating).

COLONEL STICKNEY: Indicating?

INTERPRETER BELAONG: Indicating the left chest.

Q Did you see that wound made?

A Yes.

Q By whom?

A The wound caused at the back of the neck was made by the saber of Captain Nanjo. The wound on the chest was caused by a bayonet by one of the soldiers.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: The personal interpreter has not been changed yet, has he?

MR. SCHAUER: Not yet.

MR. AITKEN: Please remind the witness he is proceeding under oath.

(Interpreter Belaong so reminded the witness.)

BY COLONEL MacKINTOSH:

Q At the same time or shortly after you saw Captain Nanjo strike Roman Dizon with the saber, did you see anything happen to Benito Mirivelles?

A At the time when Dizon was struck by the saber by Captain Nanjo, Mirivelles was standing ~~near~~ with his hands tied at the back.

Q Could you see his face?

A Yes.

Q Did anything happen to Mirivelles shortly after that?

A Mirivelles was also killed.

Q By whom?

A Mirivelles was killed by a soldier.

Q Did you see him killed?

A Yes, sir, I saw him when he was killed because I was looking.

Q How did the soldier kill him?

A Mirivelles was killed by a fixed bayonet by one of those soldiers.

Q Where was he struck?

A Mirivelles was hit here and here (indicating).

INTERPRETER BELAONG: 'He means two wounds.

Q Did you see --

COLONEL STICKNEY: Just a minute, I think we had better say, indicating two points on the left breast.

A (Continued) The first wound was located above the lower rib of the left chest. The second wound was also on the left chest on the upper part of the nipple.

Q Did you see Captain Nanjo do anything to Mirivelles at that time?

A He did not do a thing to Mirivelles, he only did strike Dizon.

Q Did you see the bodies of Roman Dizon and Benito Mirivelles after they were killed?

A I did not see their bodies because I went home.

Q Had Mirivelles turned around between the time you saw his hands tied with a rope and the time that the soldier struck him with a bayonet?

A From the time that he was standing with his hands behind, I next saw him that he fell.

Q How could you see his face and his hands behind him at the same time?

A Because we were looking at him.

COLONEL MacKINTOSH: That is all.

BY MAJOR FRITZ:

Q At the time you were apprehended, how many of your companions were at the evacuation place?

A We were four.

Q Why had you all gathered there?

A At first Gil Tanique was running and he happened to pass me by while I was tieing my carabao for pasture. As he told me that the Japanese were coming, I also followed him and on our way we also passed Dizon, who happened also at that time to be tieing his carabao for pasture, and also on our way we

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also passed Mirivelles, in which case we therefore all went to the place of Dizon.

Q Why did you go to that particular place, the evacuation place of Dizon?

A We went there because we were afraid of the Japanese.

Q Why did you pick out the particular place of Dizon to hide rather than any other place?

A We selected that place so that we would not be located by the Japanese, as we thought.

Q Why were you and your three companions fearful of being seen by the Japanese?

A We were afraid because they would arrest us if they ever happened to see us.

Q Approximately how many other men lived in the vicinity of yourself, Gil Tanique, Dizon, and Mirivelles?

A I cannot tell now because I was not acquainted with those other people there.

Q How long have you lived at your particular barrio?

A You mean at To-ong?

Q That is correct.

A I am there now for about two years.

Q In and around To-ong in April 1945, approximately how many houses were there?

A I could not count them because the houses were spread in a large area.

Q Were there more or less than fifty?

A I think it is less than fifty.

Q Were there more than thirty?

A I think less than thirty.

Q Were there more or less than twenty-five?

A I think it is more than twenty.

Q In those twenty or more houses, approximately what was the male population?

A I cannot tell approximately how many male residents in that place.

Q Were there ten or more?

A I think more than ten.

Q Were there twenty or more?

A I think around twenty or a little more.

Q Did you see or do you know from what you have heard of the action the other men of To-ong took at the time that the Japanese were coming to To-ong?

A When the Japanese come around that place, people in that vicinity would say that the Japanese were coming and I could not be sure when, but when I heard of those I also had to hide.

MAJOR FRITZ: Will you repeat my last question, please?

(Question repeated by reporter.)

A I heard that these people went to hide when the Japanese were coming in that place.

Q Did the entire sitio of To-ong depart and go into hiding?

A All of them went out to hide, because they were afraid.

Q At the evacuation place when you were with your companions, how far away were the Japanese soldiers at the time when you first saw them?

A At the time when we saw them some of them were at a distance from where I am sitting now up to that place, the garage. (Indicating) Some of them --

MR. AITKEN: Just a moment. I think we estimated that about eighty yards before, didn't we?

MR. WARD: Eighty.

A (Continued) Some of them were a little bit nearer to us; others in other directions not very far away.

Q Were these soldiers coming directly toward your shed, as you previously described it to be?

A Yes, they were going into the direction where we were.

Q Why did you and your companions not attempt to escape at that time when you first saw the Japanese?

A We were thinking that they would not be able to locate us in our place.

Q You stated that on several occasions you had seen bands of guerrillas and also that you knew they were guerrillas because they carried rifles. What kind of rifles did they carry?

A The rifles that they were taking along with them were the same as the rifles of the Americans.

Q Do you know the caliber and the make of the rifle?

A I do not know.

Q When did you examine an American rifle?

A I only saw the rifles, but I was not able to examine them.

Q When did you see an American rifle?

A I saw those rifles at the time when those people were passing in the vicinity carrying along the rifles.

Q You stated that the rifles which you saw the guerrillas carrying were the same as the American rifles. Had you ever seen an American rifle before then or after then?

A That was the only time when I was able to see the American guns or rifles.

Q Had you ever examined a Japanese rifle?

A No, I had not.

Q Do you know the difference between an American rifle and a Japanese rifle?

A I do not know.

Q Did anything come to your attention while you were going to Magbuo with the Japanese to indicate to you where they were taking you -- your final destination?

A We did not know where they would like to bring us. We were only following them wherever they wanted to go.

Q Had they ordered you to go with them?

A When they caught us they only indicated to us to go.

Q Did they attempt to use any force to make you go with them?

A I think they were forcing us that we should go with them.

Q Did they take any action other than to tell you to go with them?

MR. WARD: Objection. This is the same question

we have been objecting to. I think the last answer would fulfill this requirement, as the fact he says, "I think they were forcing us," but obviously the same question has been dropped by the prosecutor, as this is not one of the places in the counts. And the answer may be objectionable to us and we can't allow it to come in on that ground.

COLONEL STICKNEY: Anything from the prosecutor on this?

MR. AITKEN: I don't see anything particularly objectionable in it. I don't think the question is eliciting anything with reference to torture or beatings. It is merely an incident to indicate the nature of the apprehension and compulsion of these people. It is all a part of a general story that led up to a killing. That is all. I don't see anything objectionable about it.

MR. WARD: The same question just a few moments ago, when asked by you, Colonel Stickney, was objected to by the prosecutor, and the defense at that time --

MR. AITKEN: I beg your pardon, I didn't --

MR. WARD: Excuse me, by the defense and prosecutor at that time confirmed the correctness of the objection. When you are asking him if they forced him to go it is actually asking him what happened.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

A They did not do anything else than to take us along with them.

Q Did they tell you that you were under arrest?

A They did not say that we were under arrest, but they

just caught the civilians.

Q Were you and your companions the only civilians apprehended by the Japanese?

A We were only four.

Q When you saw Dizon struck with a saber, and Mirivelles pierced with a bayonet, how do you know that they had been killed? How do you know they were dead?

A Because they fell on the ground.

Q After they had fallen, did you see them move?

A Yes, they moved.

Q Did their movements indicate to you that they were attempting to get up?

A I could see that they could not stand any more, because of the wounds.

Q Did you see any blood come from the wounds?

A From the place where we were hiding, as soon as the saber was struck on Dizon I could see blood.

Q After they had fallen and were lying on the ground, did you see any blood come from the wounds?

A Yes, sir. From their wounds I could see the blood coming.

Q Did you remain at your hiding place until all the Japanese departed?

A When the Japanese left the two dead bodies were still there, and then after that we left for home.

Q Did you remain at your hiding place until all the Japanese departed from view?

A We did not leave the place until all the Japanese left and were out of our view. After that we left for home,

and notified Natividad Dizon and Bernardina Llanes.

Q How long after the Japanese had gone did you observe any movements of Dizon and Mirivelles who were lying on the ground?

A I could not estimate how long that was since the Japanese left, and we saw still the bodies of Roman Dizon and Mirivelles.

Q Did you see any movement from these two men after the Japanese had gone?

A They did not move any more after the Japanese left.

Q Did both you and Tanique leave your hiding place together?

A Yes, both of us left.

Q Do you know where Dizon and Mirivelles are buried?

A Natividad Dizon knows the place where they were buried, because she went with Gil Tanique. I did not go with them.

Q Did the Japanese soldiers ever again return to sitio To-ong?

A I did not know if they ever returned to sitio To-ong because soon after that I left my place to evacuate in another place.

Q After you had returned to To-ong, did you know where the Japanese garrison was?

A You mean to say from our place where we escaped?

Q You returned to To-ong; then you evacuated to another place. At that time did you know where the group of soldiers under the command of Captain Nanjo had their garrison?

A Yes, it was at Borohoro.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Please remind the witness that he is proceeding under oath.

(Interpreter Belaong so reminded the witness.)

Q During the time that you and your three companions were prisoners of the Japanese going from the evacuation place toward Magbuyo, what equipment were the Japanese carrying?

A I do not know now the equipments that they were having with them at that time.

Q Did they have pack on their back?

A Yes, they had.

Q All of them?

A All of them, all except the captain who had none.

Q How large were these packs?

A I think it was larger than that portfolio case ---

MR. AITKEN: Brief case.

INTERPRETER BELAONG: Brief case, indicating that one there.

MAJOR FRITZ: Would the defense counsel and the prosecution agree on the size of that brief case?

INTERPRETER BELAONG: Larger than that, he says, larger than that brief case.

MR. AITKEN: I would say it is about one foot high and fifteen inches long.

MR. WARD: Satisfactory.

COLONEL STICKNEY: Thickness?

MR. AITKEN: It depends on what is in it. At the present time it is about three and one-half inches thick.

MR. WARD: Satisfactory.

Q The packs which they were carrying, were they twice as large as that or were they smaller?

A I think it was a little bit larger than that.

Q Did you see any other objects other than a pack on the back or at the waist of the Japanese soldiers?

A They carried with them their rifle and their bullets.

Q Did you see any shoes tied to the pack?

A I was not able to note very clearly if they ever had with those packs that they carried, shoes.

Q Did you see either attached to the pack or to their waist small shovels or hatchets?

A I was not able to note what were dangling around their waist.

Q Did you see any objects other than their cartridge belts?

A I was not able to note.

Q What were the objects which you were carrying for the Japanese?

A I did not know what was the object I was carrying for them. They only told me to carry it for them.

Q Was it made of wood, canvas, or what?

A The one I was carrying was canvas, a sort of a bag.

Q Did you notice what your companions were carrying?

A I and Tanique were carrying the same objects. The other two companions of ours were not carrying any.

Q Were your hands and the hands of Tanique ever tied with rope?

A Both our hands, that means to say, the hands of Tanique and mine, were untied because the Japanese told us to carry for them the load, which we did.

Q Were your hands and the hands of your companions tied at the time you were apprehended by the Japanese?

A When we were caught all four of us were tied with our both hands, but on the way when we were told to carry for them their load, my hands and those of Gil Tanique were untied.

MAJOR FRITZ: No further questions.

BY COLONEL STICKNEY:

Q Were the hands of Mirivelles and Dizon ever untied during that trip?

A Their hands were never untied.

Q Now, when Mirivelles and Dizon were struck with the saber and the bayonet, the Japanese went off and left them where they fell, is that correct?

INTERPRETER BELAONG: Went off and left them?

Q Went off and left them where they fell?

A Yes, sir.

Q And where did the Japanese then go?

A They went towards the mountain.

COLONEL STICKNEY: What was that?

INTERPRETER BELAONG: They went towards the mountain.

COLONEL STICKNEY: I did not get whether it was "mountain" or "mountains."

INTERPRETER BELAONG: They went towards the mountain.

Q In what direction was that?

A They went into the direction of the mountain, north.

Q Was this Magbuyo Mountain that you speak of?

A Yes, sir.

Q And is that also in the direction of Barrio Magbuyo?

A Yes, sir.

Q Now, after you saw Mirivelles and Dizon from your hiding place near Barrio Magbuyo, did you ever see either of them again?

A I did not see them any more because they were already dead.

COLONEL STICKNEY: No further questions from the Commission. Anything from the defense?

RECROSS-EXAMINATION

BY MR. SCHAUER:

Q When you left the trail on which you had been walking carrying this load for the Japanese soldiers, did you walk uphill or downhill, or was the ground level?

A On our way it was such that you would be passing on a bit of lowlands, hilly sides, and trails.

Q Do you mean after you escaped from the Japanese, that is the way you went after you escaped from the Japanese?

A Yes.

Q Was the bank of the river nearest to the trail higher or lower, or the same height as the trail?

MR. AITKEN: Just a moment. I am going to object to that unless it is clarified by indicating the point. I judge from the answer of the last question that his mind was not clear as to the question and he did not

concrete his answer to the point of escape, which I believe was what is in counsel's mind, but it is not clear in the record and it is not clear to the witness.

MR. SCHAUER: I believe I asked him specifically when he escaped from the Japanese did he go uphill or downhill or what?

COLONEL STICKNEY: The objection of the prosecution is sustained. The question should be made more plain.

Q From the place where you left the trail when you escaped from the Japanese to the place on the bank of the river nearest to the trail where you went between those two points, did you go uphill or downhill?

A We were going down the trail on our way for which you may encounter plain lands, sometimes lowlands. We were going sometimes upland.

MR. AITKEN: I still don't think the witness has understood your question.

MR. SCHAUER: I will try it in a different way.

Q Do you remember the place on the trail where you and Tanique escaped from the Japanese?

A I think I could not remember them very clearly now because it was a long time ago.

Q You remember that you did leave the trail when you escaped from the Japanese, do you not?

A I remember that we left the trail from the place where we escaped, but at times on our way home, that

same trail may be crossed by other trails in which we were also passing.

Q Now, you went ~~from the trail~~ to the bank of the river, did you not, when you escaped from the Japanese?

A Yes.

Q Now, and after you got to the bank of the river you went down the river and up on the other side, did you not?

MR. AITKEN: I am objecting to this whole line of questioning. It is a mere repetition of what has been gone over for days here. This area which I take it from the evidence is about the size of this compound has been covered inch by inch.

COLONEL STICKNEY: We would like the prosecution and the defense both to refrain from describing things as they appear to them, and just -- if there is an objection, just let's state the objection and argue the objection without drawing personal conclusions.

MR. AITKEN: All right, I object to it for the reason that the witness has been thoroughly cross-examined over all the details and these details which he is going over now, and this is mere repetition and nothing that was brought out by any examination which has emanated from the members of the Commission or from the prosecution, and that there should be a limit to this cross-examination, and it has passed long since.

COLONEL STICKNEY: Any reply?

MR. SCHAUER: In examination by the Commission, I can't recall now which of the Commissioners it was that brought out this particular point, the witness here

testified that from the place where he was hiding he looked down to see Captain Nanjo. Now, that was not brought out in any questioning either on direct or cross-examination prior to that time. Now, I am trying to examine this witness on the nature of the terrain with reference to elevation, how much higher it was here and anything else in between any elevations or depression not shown other than the river, and that is basically the line I am now pursuing.

COLONEL STICKNEY: The objection is not sustained.

MR. SCHAUER: Will you repeat the last question I asked, please?

(Last question read by reporter.)

A Yes.

Q Now, from the time you left the trail until you got to the bank of the river nearest to the trail, did you go uphill or downhill?

A From the hiding place we made we went downwards and then again we went uphill.

MR. SCHAUER: Would you mind repeating the last question to the witness?

(Last question read by reporter.)

A We went downhill and uphill.

Q In other words, between the trail and the bank of the river nearest to the trail the country was hilly at that point -- that is, the place where you left the trail and escaped from the Japanese -- is that right?

A The place between the trail and the bank was running downhill.

Q About how much lower was the bank of the river at the point where you started to go down the bank to cross the river from the point on the trail where you escaped from the Japanese?

A I could not estimate, because of the position of the land going down.

Q Was the position of Captain Nanjo and his soldiers at the point where you say they were on the trail -- was that lower than from where you were hiding than it is from the top of that building to the ground (indicating the Army and Navy Club building)?

A The place where we were hiding at that time was as high as that top of the building of the Army and Navy Club down to this place where I am sitting.

COLONEL STICKNEY: Do you want to describe that for the record?

MR. SCHAUER: I am not too clear--I don't know whether counsel is -- as to whether that answer is correct. He is practically doing mountain climbing.

MR. AITKEN: They were in the mountains. I would say the height, however, is about forty-five feet, estimating the Army and Navy Club building to be four stories, eleven feet to a story.

MR. SCHAUER: That would be about right -- forty-five feet. On the other hand, if he means it was as high as from the top of the building over here, that would be one hundred and twenty-five yards, which would indicate that he was making an almost impossible climb, inasmuch as he testified previously that that was about the distance between the two points.

MR. AITKEN: For the purposes of the record, we could say the top of the Army and Navy Club is about forty-five feet, is that right?

MR. SCHAUER: Yes.

MR. AITKEN: The other calculations could be made by the --

Q Would you say then that the place you were hiding was about forty-five feet higher than the place where you saw Captain Nanjo and the other soldiers?

MR. AITKEN: Just a moment. I think the witness ought to be apprised of the fact that we have estimated the height of that building to be forty-five feet. He does not know at this time.

COLONEL STICKNEY: I don't know that he needs to know that. Perhaps it would be better to have an independent estimate in.

MR. AITKEN: Maybe. I will withdraw the objection.

(The reporter read the question.)

A I cannot give it exactly that much, because that was only an estimation.

Q Then, according to your best estimation, the difference between you at the place you were hiding and the place where you say you saw Captain Nanjo and the soldiers was about the same as the height of that place (indicating the Army and Navy Club building), is that right?

MR. AITKEN: The height?

MR. SCHAUER: Yes.

MR. AITKEN: I think the question should say "The difference in height."

MR. SCHAUER: Yes. I will withdraw that question and reframe it.

Q Then it is true, is it not, that according to your best estimation the difference in the height between the place where you were hiding and the place where you saw Captain Nanjo and his soldiers was about the same as the height of that building, that is, the distance from the top of the building to the ground, and I am indicating the Army and Navy Club building.

A Yes.

Q Now then, your hiding place was on the bank of the river -- the edge of the bank of the river farthest away from the trail, was it not?

A Yes, the place where we were hiding was quite far from the place of the trail.

Q The place where you were hiding was at the top of the bank of the river, was it not?

A Yes, it was at the top place of the bank of the river.

Q And as you looked over toward the trail from which you had escaped from the Japanese, you could see the other bank of the river, could you not?

A Yes, we could see the other side of the bank of the river.

Q Now, was the other side, that is the bank on the other side of the river from where you were hiding, about the same height as the place where you were hiding?

A The place where we were hiding was a little bit higher than that bank.

Q You mean a little bit higher than the bank on the other side of the river toward the trail?

A You mean at the place where we were hiding?

Q Yes. I will rephrase that question.

From the place where you were hiding as you looked across the river to the other side and saw the other bank, was the other bank of the river about the same height as the place where you were hiding?

MR. AITKEN: That is objected to as already asked and answered. The witness has answered it clearly.

MR. SCHAUER: I don't believe he has. At least it was not clear to me.

COLONEL STICKNEY: The objection is not sustained.

A Our hiding place was higher than the other side of the bank of the river near the trail.

Q About how much higher was the place where you were hiding from the top of the bank on the other side of the river?

MR. AITKEN: That is objected to as having been already asked and answered.

MR. SCHAUER: I beg to differ with counsel. That has not been asked and has not been answered. If the Commission would like me to explain --

COLONEL STICKNEY: The objection is not sustained.

A I could not give the estimate how much higher was our hiding place than the other side of the bank of the river near the trail.

Q Was it as high as from the floor to the ceiling here in this room?

A I could not tell how high it was, but we could see from our hiding place plainly the other side of the bank of the river near the trail.

MR. SCHAUER: For the purpose of the record, I don't know whether it was stipulated, but in response to questions a few moments ago, we referred to the Army and Navy Club building. Will you stipulate, counsel, according to our best estimate, the top of the building would be about forty-five feet from the ground?

MR. AITKEN: Right.

COLONEL STICKNEY: The Commission will take a recess and reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel for the defense, the defendant and his personal interpreter, the interpreters, and the reporter are all present in court. Will you please remind the witness that he is proceeding under the same oath?

(Interpreter Belaong so informed the witness.)

TIBURCIO JONOTA

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

RE-CROSS EXAMINATION (Continued)

BY MR. SCHAUER:

Q You say that from your hiding place on the bank of the river that looking across the river from that point to the bank on the other side, that that bank was lower than the place where you were hiding. Now, can you tell us about how much lower it was?

A I could not give an estimate because of the position of the land.

Q You say it was lower, though, than the place where you were hiding?

A Yes.

Q Would it be as much lower as the distance between the top of this room and the floor?

A I cannot calculate the height because of the slant position of that land.

MR. SCHAUER: Would you repeat that last question I asked, please?

(Last question read by reporter.)

MR. AITKEN: I would like to put in an objection at this time. The witness has already answered that question a number of times. It is in the record.

COLONEL STICKNEY: Any reply?

MR. SCHAUER: He has not given any answer. I would like to get some sort of an estimate from him.

COLONEL STICKNEY: I believe we have a direct answer to the last question. The objection is sustained.

Q How far was it from the place where you were hiding to the top of the bank of the river on the other side?

A I think the distance was about from this place where I stand, up to that building where you can see the chimney top.

MR. SCHAUER: That would be about 125 yards, is that right?

MR. AITKEN: I don't think I ever agreed to 140 yards. I think I said about 125 yards.

MR. SCHAUER: That is what I said -- 125 yards.

MR. AITKEN: Oh, yes, that is to the chimney stack.

MR. SCHAUER: Yes.

Q And from the top of the bank of the river on the other side from where you were hiding it was about, that is, from the top of the bank on the other side of the river from where you were hiding to the place on the trail where you threw down your load, was also about as far as from where you are sitting to where those **smokestacks** are, is that not so?

A No, it was not about that same distance as I have indicated because at the time when we threw our load we immediately ran away.

Q From the time when you threw your load and left the -- threw down your load and left the trail to run away from the Japanese and from that point to the first bank of the river, that is, the top of the bank of the river before you crossed the river, was that distance as far as from where you are sitting to that building over there where the **smokestacks** are?

A I cannot tell the distance.

Q Can you tell approximately how far it was?

A I cannot calculate, I cannot say about that.

Q How long was it from the time that you threw down the load that you were carrying for the Japanese until you got to your hiding place on the other side of the river?

A You mean the time by the hour?

Q Yes.

A I could not tell now how long was that, because I was afraid; all that I had to do was to run away.

Q When you saw the bodies of Dizon and Mirivelles after you say the Japanese had struck them with sabers and bayonets,

were the bodies lying on the trail?

A Their bodies were at the side of the road at the tree.

Q Was it the side of the road nearest to you?

A On the other side opposite the place where we were.

Q Was Dizon lying face downward?

A I could not tell exactly whether the body was facing downward because immediately after that we went away.

Q Could you tell whether or not Mirivelles was lying face down on the trail?

A I was not able to note how his position was when he fell.

Q Did you notice what position his body was in after the Japanese went away?

A I was not able to note how the position of the bodies were because we also left soon after.

Q Did you see the bodies on the trail after the Japanese left?

A When they were killed the Japanese left them on the trail.

MR. SCHAUER: Would you repeat the question, please?

(Question read by reporter.)

A I only saw the bodies when they fell. After the Japanese left I did not ascertain because we also left immediately for home.

Q Did you actually see the Japanese strike Mirivelles and Dizon with the bayonet and saber?

A Yes.

Q Isn't it a fact that someone told you that this is

what happened and that you did not see it yourself?

A I was there and when that thing happened we were together at the time we were arrested, so nobody told me what to say because I actually saw what happened to us.

Q Didn't you tell us yesterday that after you saw Captain Nanjo with the saber raised over his right shoulder that you did not see anything more after that?

A When he raised his saber he hacked it on the body.

Q Didn't you tell us yesterday that the last thing you saw was Captain Nanjo with his saber raised over his right shoulder and that you did not see anything more happen after that? Now, didn't you tell us that yesterday?

A I declared yesterday that Captain Nanjo raised his saber over his right shoulder but I was not able to tell farther that he made a blow with it.

Q Didn't you tell us at that time that that was all that you saw happen?

A What is it?

Q Didn't you tell us yesterday that that was all you saw happen. That is, that you saw Captain Nanjo raise the sword over his right shoulder, and didn't you tell us that you didn't see anything else happen after that?

A Yes, I only said that he raised his sword over his shoulder. I did not farther say that he made a stroke with his saber because I was not asked about it.

Q Didn't you tell us, though, that that was all that you saw and that you didn't see anything after that?

A Yes, I declared that he raised his sword over his shoulder and that was the position that I indicated.

But, I was not asked furthermore what he had done later after that.

Q As you were going along the trail before you threw down your load and ran away, were you going uphill, up the mountain?

A We were going downhill towards our place.

Q If you were going along the trail when you were carrying this load for the Japanese, and at about the place where you threw down your load to run away, were you going uphill before you threw down your load?

A We were going down.

Q And at the time you threw down your load and left the trail, Dizon and Mirivelles who were ahead of you were downhill from you, were they not?

A As you know, the trail that we took along was going up and down and at that time while we were going downhill Mirivelles and Dizon were going uphill.

Q When you threw down your load and ran away did you go straight across from the road or did you go toward the rear -- that is, back toward the place where you had been coming along the trail?

A We were walking in a zigzag way, and then when we were quite far away we ran.

Q Have you talked to Tanique about this case since you were in court yesterday?

A Did you mean yesterday?

Q After you got out of court here yesterday, did you talk to Tanique at any time before you came back in court today?

A Yes, I was able to talk to him because we were together.

Q Did you tell him what you told us here yesterday?

A No.

Q Did you talk at all about this case or about Captain Nanjo?

A Yes, because we were together.

Q Did he ask you questions about what you told us yesterday?

MR. AITKEN: That is objected to as being absolutely immaterial. It can't affect the credibility of this witness' testimony; it might go to the way of Tanique's testimony when we put him on the stand; but it isn't material as far as this testimony is concerned.

MR. SCHAUER: It would affect both witnesses, because by his testimony they were both together on this particular occasion, and I think certainly the Commission is entitled to know whether these people have been discussing the case. It makes a difference, so far as the weight of their testimony is concerned, particularly when and if the testimony does show that they agree on certain facts about the case.

COLONEL STICKNEY: And suppose they disagree?

MR. SCHAUER: That we don't know yet whether they will or not.

COLONEL STICKNEY: The objection is sustained.

Q Did you tell Tanique what questions were asked of you yesterday?

MR. AITKEN: The same objection.

COLONEL STICKNEY: The objection is not sustained.

A I did not tell him about what I declared here, although we were together. Possibly he may declare about the same thing, although I did not tell him about it.

Q Did you talk about happened on the 4th of April, 1945?

A Yes, we talked about it.

MR. SCHAUER: That is all.

COLONEL STICKNEY: Anything further --

MR. SCHAUER: Yes, I do have one more matter.

Q When you saw Captain Nanjo walking on the 4th of April, 1945, did he limp?

A I was not able to note whether he was limping or not.

MR. SCHAUER: That is all.

MR. AITKEN: No further questions.

COLONEL STICKNEY: Anything further from the Commission?

EXAMINATION BY THE COMMISSION

MAJOR FRITZ: Will the witness, the interpreters, prosecutor and defense counsels please come to this table.

(The witness, interpreter, defense counsels and prosecutor approached the Commission's bench.)

BY MAJOR FRITZ:

Q (To the interpreter) Here are two separate profile views -- one lettered A and one lettered B. (Showing diagrams) First, I will explain certain things which have been indicated here. Then I am going to ask the witness which sketch identifies properly the scene where he hid and witnessed the killing of his two companions. (Interpreter Belaong translated to the witness.) If he is looking this way along the ground (indicating), this is the river going in this direction; these are the slopes; these are the banks; this is the trail where Captain Nanjo and his two companions were; this is the opposite bank where he was hiding. Explain that to him. After you have done that ask him whether this describes the scene or if this were the river, did the slopes

go straight up from the river with the trail on this side and his hiding place here without any banks (indicating), or was the scene as described by this sketch (indicating)? Explain both of them to him and ask him which describes more properly the scene of where he witnessed the killing of his two companions.

A This is the most approximate diagram, because our hiding place was still part of the slope of the bank of the river. (Indicating diagram)

COLONEL STICKNEY: It appeared to me the interpreter was concentrating on the left bank throughout his interpretation. Is he clear on what is happening on the right bank at the same time? What I mean is the two right banks have their dissimilarities, the same as the two left banks have dissimilarities.

Q Let me ask one thing here. From the trail, before you escaped, were you able to see the water in the river?

A These slopes are covered with trees, so that we could not see the water, but we could hear the noise of the flow of the water.

MR. WARD: If you will use this diagram, and you could --

COLONEL STICKNEY: What is happening now? Is this still examination by the Commission?

MR. WARD: I am suggesting a question to the Major.

MAJOR FRITZ: It is a third alternative.

COLONEL STICKNEY: Just a second. If you are suggesting something to the Major, do we want an off-record discussion?

MR. WARD: No. I would just as soon put it on the record.

MR. SCHAUER: I would like to make a remark off-the-record, if the Commission please.

COLONEL STICKNEY: It is understood that if we go off-record there will be something in the record to tell generally why we went off.

MR. SCHAUER: That 's right.

COLONEL STICKNEY: Is there need of going off the record?

MR. SCHAUER: I don't think there is any necessity of it. I really don't think it makes much difference one way.or another.

COLONEL STICKNEY: I will leave this with Major Fritz. This is his cross-examination right now.

MAJOR FRITZ: What is your suggestion?

MR. SCHAUER: Counsel, correct me if I am misstating this. As I recall, in the testimony of the witness here from the point on the trail where he left the trail to this bank, to the edge of this bank, was an uphill grade and a distance of approximately one hundred yards, I believe is the testimony he gave, and as I recall the slope, that is the difference in elevation --

COLONEL STICKNEY: I think that this should be off-the-record. It sounds to me like testimony or a remembrance of evidence which may or may not be right. We will have a little off-record discussion until we are ready to go on the record.

(At this point there was an off-the-record discussion.)

COLONEL STICKNEY: Are we back on the record now?

MAJOR FRITZ: I think so.

COLONEL STICKNEY: I would like to have it appear that there was an off-the-record discussion between the prosecutor, the defense counsels, and certain members of the Commission as to the remembrance of various people as to testimony given from time to time concerning the terrain near the point of escape.

MR. WARD: Also that we have a new map --

COLONEL STICKNEY: No, I don't care to have that as a part of the off-record discussion. We are back on the record.

MR. AITKEN: For the purpose of the record, I think if your statement stated that the off record discussion did not include anything that was not already in the record in some way or other, I think it would be better.

COLONEL STICKNEY: That is correct. The off record discussion was a discussion of various people's remembrances as to past evidence.

Q I have drawn a third sketch, calling it "C." Devote your attention only to the right part of the sketch. If this were the trail (indicating) and from that point to this point were called the bank, which the witness had stated was one hundred meters, and this were the slope, and this would be the river, does that properly represent the right side of the river before he crossed to the other side?

A Yes.

Q Now, when you started up the opposite slope -- take the pen and point approximately to the place where you stopped

and went into hiding to observe what the Japanese were doing.

A (Witness indicated on diagram.)

MAJOR FRITZ: That should indicate a point on the slope below the bank where he stopped and observed the action of the Japanese. His previous testimony, of course, as to relative heights and distances still stands because this sketch perhaps is not as accurate as it might be. It just gives us the proper position on the opposite bank, and it clears my point up, Colonel, whether he is still on the slope.

COLONEL STICKNEY: Do we have three sketches?

MAJOR FRITZ: Yes, sir.

COLONEL STICKNEY: And have we described into the record the three sketches? We have a description of one sketch, but have we the other two described into the record?

MAJOR HERR: I believe the reporter was taking notes.

MR. SCHAUER: The third sketch, the one on which the witness has indicated his relative position with reference to the left side of the bank, will this go into the evidence? The reason I ask is because the discussion, the record discussion, has been very little; unless it is followed by the actual map, so that either the Commission or the reviewing authority in reading that testimony -- it will mean very little, unless they have a map or diagram to refer to.

MR. AITKEN: I was suggesting this to counsel. Do you think we can stipulate here that the witness has agreed on the third sketch, eliminating the first two from consideration and the third one marked "C" as the correct sketch. That will avoid cluttering up the record with two sketches which have no particular value in the evidence, because the witness has not agreed on them but has agreed on the third.

COLONEL STICKNEY: The question in my mind is whether we want any further sketches in the record or not. Every sketch we make for the record must be reproduced at least twelve times and we should give thought to the value of it for that purpose. It struck me that the description of Sketch No. 3 as given into the record, so far as this is concerned, was sufficient and any further description that is needed might go in orally and save the reproduction in quantity of a rough sketch.

MR. SCHAUER: That would be perfectly satisfactory to the defense, if the Major would describe it.

MAJOR FRITZ: That has already been done.

COLONEL MacKINTOSH: I would like to ask one more question on that.

COLONEL STICKNEY: But, if we are now concentrating on this sketch as distinct from the other two, can we once more have a description that will be satisfactory to all parties and avoid a reproduction of the sketch?

MR. SCHAUER: I would like to ask the witness with reference to one matter here.

COLONEL STICKNEY: First, let's solve this question. Are we going to need a sketch or can we describe the sketch orally?

MR. WARD: We may need this sketch. It must be remembered we have another witness going to testify as to similar characteristics of the terrain, which testimony might be radically different, and if it is, of course, we will need the sketch at that time. We cannot tell at this time whether we will need it or not.

MR. AITKEN: Personally, I would like to have the sketch in. I don't think the other two are necessary though.

COLONEL STICKNEY: Very well.

MR. AITKEN: I might state that the record might show, Major, by some mark of identification the point -- you see that the witness put on the sketch himself.

MAJOR FRITZ: Call it point "X."

MR. SCHAUER: Point "X," that would indicate point "X" for the purpose of the record, indicating a position marked by the witness as being the place where he hid from the Japanese.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Interpreter Belaong reminded the witness.)

BY COLONEL MACKINTOSH:

Q I would like the witness shown this sketch marked "G" once more, and I want to ask him whether the ground slopes downward from here on the trail where Captain Manjo was to the start of the steep slope?

A From the trail where we left them to the bank of the river the land was sloping down.

Q Will you indicate with your arm, pointing how much it sloped downward?

A The position was like this (indicating).

MR. AITKEN: Forty degrees?

MR. SCHAUER: Thirty degrees.

COLONEL STICKNEY: Wait just a second. I would rather the two counsel would agree on it. First of all, I wonder if the witness can do what he was told to do, so angle with his arm, not with the palm of his hand.

A From the elbow.

COLONEL STICKNEY: Ask him again to use the entire arm, not the forearm, but the entire arm.

(Witness indicated the slope by using the entire arm.)

COLONEL STICKNEY: What can we agree on now?

MR. AITKEN: Fifteen degrees is agreed on.

MR. WARD: That is right.

COLONEL STICKNEY: Any further questions from the Commission? Anything further from the defense?

MR. SCHAUER: Yes, I would like to ask the witness some questions with reference to the diagram.

RECROSS-EXAMINATION

BY MR. SCHAUER:

Q When you went from the place where you threw down your load on the trail and left the trail, when you left this trail and went over here to the bank of the river, were you going uphill or downhill?

A We were going downhill.

Q From the trail then to the bank of the river it was downhill, is that right?

A Yes, it was going downhill.

MR. SCHAUER: That is all.

COLONEL STICKNEY: Anything further from the defense?

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: No further examination, but at this point I would like to offer on behalf of the prosecution and as a part of the witness' testimony the sketch, the original sketch, as Prosecution's Exhibit No. 4, with the permission to withdraw it and file for the record re-duplications of it.

MR. WARD: An objection by the defense that at this time the defense would like to use People's Exhibit No. 4.

COLONEL STICKNEY: There is no People's in here.

MR. WARD: The Prosecution's Exhibit No. 4 for further identification of subsequent witnesses. At that time he certainly may withdraw the sketch.

MR. AITKEN: I will withdraw the offer at this time and ask that it be marked Prosecution's Exhibit No. 4 for identification, so that it can be referred to intelligently.

COLONEL STICKNEY: It is so ordered. The witness is excused.

MR. SCHAUER: With reference to the Defense Exhibit A that has been previously considered for purposes of identification, I am going to ask that that be introduced

in evidence as Defense Exhibit A and that the necessary copies of that will have to be made.

MR. AITKEN: No objection.

COLONEL STICKNEY: The witness is excused, I said --

MR. AITKEN: I asked him to stop for a moment because I want to ask the Commission and defense, can this man now be permanently excused so that he can be sent home at once, because of the reason that since he has been up here he has been notified by letter from his children that his wife died and that they are down there penniless and they are asking him to send them money, so, it is a shame to keep him here, unless it is absolutely necessary, and if you can dismiss him now altogether, the prosecution will see that he is sent home immediately.

MR. WARD: No objection by the defense.

COLONEL STICKNEY: All right. It is so ordered.

(Witness excused.)

(The ruling on this motion was made on the morning of 22nd October at the end of testimony given by Lt.Yamanouye.)

GIL TANIQUE

a witness for the prosecution, having been previously duly sworn, testified further through Interpreters Genoves and Belaong as follows:

MR. AITKEN: Will you remind this witness that he has already been sworn in this case and is proceeding under the oath already administered?

(Witness so reminded by Interpreter Belaong.)

DIRECT EXAMINATION (Cont'd.)

BY MR. AITKEN:

Q If my memory is correct, I think the witness was withdrawn at about the point of time where he had testified that he had been apprehended by the Japanese with his three companions.

MR. WARD: Yes.

COLONEL STICKNEY: I have a note from his former testimony -- this is Gil Tanique?

MR. AITKEN: Yes.

COLONEL STICKNEY: (Continuing) To the effect that Mirivelles and Dizon died near Magbuyo on April 4, 1945.

MR. AITKEN: I think we had gotten just a little bit past the point of apprehension.

Q I will recall to you that you have stated that after you and Roman Dizon, Benito Mirivelles and Tiburcio Joneta were apprehended by the Japanese, that on or about 4 April 1945, Dizon and Mirivelles were killed by the Japanese. Will you state what you saw at that time, at the time of the killing?

A They were brought to the Mountain Magbuyo and there they were killed.

Q Were you brought also to the same place?

A I went there only with the daughter, Natividad Dizon, to bury the dead.

Q I am now referring to the time when you were a prisoner of the Japanese, did you escape?

A I was able to escape.

Q Who escaped with you?

A Tiburcio Jonota.

Q Now, I want you to describe to us how you escaped.

A While we were on the way with the Japanese, I was telling Tiburcio Jonota that, "Let us try to escape. At any rate, if we don't escape, we will be killed, so if we try our best to escape, we may be able to escape death."

Q In what order was the expedition proceeding along?

A Before Roman Dizon and Benito Mirivelles there were about more or less ten Japanese soldiers preceding them, while we were behind with Jonota.

Q How far ahead of you were they?

A I think we were at a distance of about ten men in the space between us and those two people.

Q Were you proceeding in single file, or in other formations?

A We were proceeding in a single file.

Q And Mirivelles and Dizon, where were they?

A They were ahead about ten men away.

Q How many men altogether were in this company?

A Do you mean all the Japanese?

Q All the Japanese.

A I think more than one hundred Japanese.

Q Where was Captain Nanjo at the time, what part of the formation?

A He was ahead of Benito Mirivelles.

Q And was he in the first squad or a different squad?

A He was in the same squad.

Q What condition were Dizon and Mirivelles in, were they carrying loads or were they bound or free?

A These two people were having their hands tied behind their backs.

Q And what condition were you and Jonota in?

A We were carrying their bags.

Q And where were you in the line?

A We were behind them.

Q Now, when you came to this place, did you throw down your bag, and I mean by this place, I mean Magbuyo?

A We threw down our bag we were carrying and escaped, running away.

Q Now, which way did you go?

A We went back.

Q Were you shot at at any time?

A Yes.

Q Did the Japanese follow you?

A Yes.

Q How far did you run?

A I cannot calculate how far we had gone because we were running away to escape.

Q Where did you run to?

A We escaped and hid behind the trees.

Q Did you see Dizon and Mirivelles at this time?

A We were able to see from a distance when they were being killed.

Q Who was doing the killing? Tell us what you saw.

A It was Captain Nanjo.

Q Tell us what you saw.

A They were killed by the back of the saber of Captain Nanjo.

Q Did you see him use the saber?

A Yes.

Q Did you see him strike anybody with it?

A He used it against Mirivelles and Dizon.

Q Which one did he strike first?

A Roman Dizon.

Q Did he also strike Mirivelles?

A Yes.

Q After that what did you do?

A After those two men fell, the Japanese marched away and we also went home.

Q Where did you go?

A We went to notify Natividad Dizon that her father was killed.

Q Who else did you talk to?

A Bernandina Llanes.

Q What did you tell her?

A It was Tiburcio Joneta who told her, "Dinay, your husband is already dead."

Q After that did you go back to the scene where Dizon and Mirivelles were killed?

A I went back with Natividad Dizon.

Q When did you go back?
A That same day.
Q About what time?
A I do not know what time it was.
Q More or less. What would you judge from the position of the sun?
A I think it was after mid-day. After the noon meal.
Q And did you show her the bodies of her father and Mirivelles?
A Yes.
Q Did you examine the bodies?
A Yes, we examined it with Natividad Dizon.
Q What did you see on the body of Dizon, with reference to wounds?
A His wounds was located at the back of the neck and here (indicating the center of the thorax).
Q What sort of wound was at the back of the neck?
A It was caused by the saber.
Q What was it? A thrust or a cut?
A Through a cut or hack.
Q What was the nature of the other wound?
A The wound on his chest was caused by a bayonet.
Q Did you examine Mirivelles's body?
A I did not see it. Only Natividad Dizon was the one who saw it.
Q Did you two bury those bodies?
A Yes.
Q Where did you bury them?
A On the same place where they were killed.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. WARD:

Q What time of day did you first see Jonota?

A In the morning.

Q Where were you at that time?

A I was at my house where I live.

Q Did you speak to Tiburcio Jonota at that time?

A I talked to Jonota at the time when I was running away, telling him: "Tiburcio, the Japanese are coming."

Q How did you know the Japanese were coming?

A Because there were many civilians running away.

Q Where did you see these civilians running away?

A There near the place of my house.

Q Were they men or women?

A They were men and women.

Q Did you notice where they were going?

A I did not note, because they were hiding.

Q Did anyone of them say anything to you?

A Yes.

Q What did they say?

A They were shouting that the Japanese were coming.

Q Where were you when you saw the civilians running away?

A I was at my house.

Q Could you see Jonota from your house?

A I could not see him from my house, but on my way while I was running away for hiding, I saw him on my way and told him that the Japanese were coming. At that time Jonota was tying his carabao for pasture.

Q Did you say anything else?

A While I and Jonota were running away, Jonota saw Dizon and Mirivelles and he also told them that the Japanese were coming.

Q Did you say anything more to Jonota, other than, "The Japanese are coming," when you saw him tying his carabao?

A I did not tell him any other.

Q Did you not tell him, "Let's go away immediately; the Japanese are looking for me"?

A I could not remember.

Q Would you say you did not say that?

A I could not remember.

Q Did you not tell Jonota why the Japanese were looking for you?

A I cannot remember now.

Q Did you not say they were looking for the others as well, meaning Mirivelles and Dizon?

A I cannot remember.

Q Would you say you did not say these things?

A I cannot remember.

Q Where did you and Tiburcio then go?

A The four of us went on our way, because Dizon invited us to hide in his evacuation place.

Q Where were Dizon and Mirivelles when you told Jonota that the Japanese were coming?

A They were also tying their carabao for pasture.

Q What time of day was it?

A It was in the morning.

Q How long after sunrise?

A I think it was about seven o'clock.

Q Where did the four of you then go?

A We went to the evacuation place of Dizon.

Q Where was that evacuation place, in relation to Dizon's house?

A That was only the time when I saw Dizon. I did not know where the house of Dizon is.

Q How far from Dizon's house do you live?

A I do not know the house of Dizon.

Q Before the 4th of April, 1945, you state you did not know Dizon at all?

A I knew Dizon, but I did not know his house.

Q Did you know his daughter?

A Yes.

Q How far from the road was this evacuation house?

A It was quite far away from the road.

Q Could you see the road from that house?

A The road could not be seen, because that place for evacuation was a hiding place.

Q It is surrounded by bushes and grass, is that correct?

A Yes.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours, on the 16th of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 16 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME IX

PAGES 525 - 591, INCL.

MANILA, P.I.

DATE: 16 October 1946

COPY NO:

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P.I.
16 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel

MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d Lt. HAKUZO NITTA
T/3 TAKEO SAITO

Japanese
Japanese

FILOMENA ZOSA
PEDRO GENOVES
MACARIO E. BELAONG

Ilongo (Visayan)
Ilongo (Visayan)
Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 16 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the assigned interpreters, and the reporter are all present in Court.

Will you remind the witness that he is proceeding under oath?

(Interpreter Belaong so reminded the witness.)

MR. AITKEN: At the close of the last session Gil Tanique was on the stand undergoing cross-examination.

GIL TANIQUE

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

CROSS-EXAMINATION (Cont'd)

BY MR. WARD:

Q Yesterday you stated that the four of you, yourself, Dizon, Mirivelles and Jonote were in the evacuation place of Dizon's, is that correct?

A Right.

Q Were there any others there?

A There were no others.

Q These civilians you stated were running from the Japanese, did any of those civilians try to get into Dizon's evacuation place?

A There were no other civilians.

Q Now, as you entered the evacuation house, what did you first do?

A We went up to the house and sat there silently.

Q Were there any ~~machete~~ in this house?

MR. AITKEN: They don't have them in this country, they are bolos.

COLONEL STICKNEY: I would rather you did not interrupt. What was the word?

MR. WARD: I think it is ~~machete~~. I will withdraw the last question.

Q Were there any bolos in this hut?

A No.

Q Were there any farming implements?

A Yes, they were kept there.

Q You state these farming implements were kept there?

A Yes.

Q What type of implements were they?

A There were one plow and one harrow.

Q Were there any knives there that you used to cut tuba?

A I was not able to observe whether there was anything of that kind because we were hiding in that place.

Q Would you say there were no knives there used to cut tuba?

A I was not able to see.

Q How big is this little hut?

A I think it is about both arms extended, the length is about both arms extended in square.

Q Is it not a fact you had some rifles in that hut?

A No.

Q When did you first see the Japanese coming?

A When people were shouting telling that the Japanese were coming, and then that was the time when I also ran away.

Q Did you see the Japanese then?

A No.

Q When did you first see the Japanese?

A At the time when they captured us in the evacuation place.

Q The first Japanese you saw was already in the evacuation place, or did you see them on the outside?

A At the time when they came up to the place where we were hiding when they captured us.

Q Were you looking out of the evacuation place before they captured you?

A We were looking outside.

Q Did you see any Japanese approaching the hut?

A The Japanese who came to us was the Japanese we saw.

Q How far away were the Japanese from the hut when you first saw them?

A The length was about both arms extended from the house where we hid.

Q The first time you saw the Japanese while you were in the hut, was when he was about six feet from you, is that correct?

A I do not know what is six feet, but I say it is the length of both arms extended.

Q How many Japanese did you see at that time?

A Those who came up to our place were four.

Q When you saw this one Japanese, or saw the Japanese two arms length away from the hut, how many Japanese did you then see?

A Those were the four Japanese who came up to our hut.

Q Did you see any Japanese prior to seeing them two arms length away?

A No.

Q These Japanese you saw two arms length away, were they in the direction of the door or on the sides of the hut?

A At the back of the hut.

Q Were these the same four that came in the hut?

A Yes.

Q Prior before seeing these Japanese two arms length away, did Jonota ever say anything about the Japanese coming?

A He whispered only because we were afraid.

Q Did he whisper that he saw the Japanese coming before you saw these four Japanese two arms length away?

A Yes.

Q How long before you saw the four Japanese did Jonota whisper to you that they were coming?

A It was at the same time when Jonota was telling us because we were also peeping through the hole in the hut.

Q Then he whispered to you just as you saw these four Japanese, is that correct?

A Yes.

Q What did the four Japanese do that you saw at the back of the hut?

A They immediately came up to our hut.

Q Were they armed?

A Yes.

Q With what?

A Rifle and bayonet.

Q Did they come into the hut, or did you come out?

A They went up to the hut.

MR. WARD: Will you repeat that answer, please.

INTERPRETER BELAONG: "They went up to the hut."

Q They went inside?

A They went inside the hut.

Q All four?

A Yes.

Q What did they say at that time?

A They said "You are USAFFE".

Q Was this in Japanese or Visayan?

A In Visayan, because that was the only -- those were the words they said.

Q Did they say anything else?
A No other.
Q What did you answer?
A I replied "civilians".
Q Did they ask Jonota the same thing?
A Yes.
Q What did he say?
A He also answered civilians.
Q Did they say the same thing to Dizon?
A Yes.
Q Was his answer the same?
A The same.
Q And Mirivelles?
A The same.
Q Did they ask them any other questions?
A No other.
Q They tied your hands, is that correct?
A Yes.
Q And tied the hands of Jonota, Mirivelles, and Dizon, right?
A Yes.
Q Did you stay in the hut or come outside?
A We were in the hut when they tied our hands, and then they brought us down.
Q How many soldiers were outside?
A I was not able to see because at that time they were also hiding.
Q When did you first see other soldiers than the four Japanese that captured you?
A When those four Japanese captured us and we went down in the front of the stairs on the ground, Captain Nanjo was there.

Q Were there any other Japanese?

A We did not see.

Q You state these other Japanese were hiding, did you eventually see where they were hiding?

A We saw them only after we proceeded on our way.

Q Were they hiding about your evacuation place?

A Yes.

Q Did they completely surround it?

A Yes.

Q After you came out of the hut and were standing with Captain Nanjo and the four soldiers, did you see these other soldiers that were hiding come forward?

A Yes.

Q Did they take you to the road immediately?

A Yes.

Q Did these people search your house? (I will withdraw that.)

How far is Dizon's house from this evacuation place or tool house?

A I said yesterday that I did not know the house of Dizon.

Q When the soldiers came forward from hiding about how many were there?

A They came forward from their hiding place and I observed when we were marching that they were about one hundred.

Q How long had you been in your hiding place before you saw these four Japanese?

A We were there about one hour already.

Q The Japanese took you immediately to the road, is that correct, from the evacuation place?

A They first investigated us when they captured us.

Q By "investigated" you, you mean what?

A I mean that they talked to us by asking us if we were USAFFE.

Q After they took you to the road -- correct?

A Yes.

Q When did they untie your hands?

A We were already walking when they untied my hands and that of Tiburcio and we brought their load.

Q Were you walking to the road at that time from the evacuation place?

A Yes.

Q From where did they get the bags that you carried?

A From the Japanese soldiers.

Q Were there other bags than the two you were carrying?

A These were the only bags.

Q You mean those were the only bags that the group of one-hundred Japanese were carrying -- is that correct?

A Yes.

Q Were the four of you, Jonota, Mirivelles, and Dizon, walking together at that time?

A Do you mean when we were already walking with the Japanese?

Q When you were walking from the evacuation place to the road, were all four of you Filipinos together?

A Yes.

Q Were there one or two squads of Japanese at that time?

A When on our way and I and Tiburcio were carrying the load, Dizon and Mirivelles were ahead of us.

Q While you were walking from the evacuation place to the road, were there one or more squads of Japanese?

A I was not able to observe how many.

Q When did the Japanese give you a bag to carry?

A On that same day.

Q Were you at the evacuation place or on the road?

A Already on the road.

Q When they gave the bag to you and Tiburcio, where were Dizon and Mirivelles?

A They were already ahead of us.

Q How far ahead?

A As I said yesterday, our distance was about ten soldiers ahead.

Q Point out the distance at this time equivalent to that of ten soldiers.

A I think from this place up to that other shed (indicating); the distance was about from the place where I am now up to the wall of that other shed facing us.

MR. AITKEN: Referring to the second shed?

INTERPRETER BELAONG: Yes, the second shed. No, this shed.

MR. AITKEN: The nearest shed?

INTERPRETER BELAONG: Yes.

MR. AITKEN: If it please the Commission, I will pace it.

MR. WARD: The estimate is satisfactory.

(At this point the witness paced off the distance)

between the courtroom and the shed.)

MR. WARD: About thirty-five feet?

MR. SCHAUER: It is more than that.

MR. AITKEN: This platform has been estimated at fourteen feet. Thirty-five feet -- that is all right.

MR. WARD: It has been stipulated that thirty-five feet is about the distance.

Q When were the ten soldiers placed between Dizon and Mirivelles and you and Jonota?

COLONEL STICKNEY: Will you read that question, please?

(The reporter read the question.)

A On that same day.

Q Before you reached the road from the evacuation place were there ten soldiers between you and Dizon and Mirivelles?

A From the evacuation place where we were captured up to the road, all four of us were together and tied with both hands, but on the way after two of us were untied, that means I and Tiburcio, in which we carried their load, and only at that time when Dizon and Mirivelles were a distance from us about ten soldiers.

Q When during that trip were you separated from Mirivelles and Dizon -- before you reached the road, immediately after you reached the road, or after you had been walking some distance?

MR. AITKEN: I am going to object to the question. It has been asked and answered a dozen times to date. The witness has testified at the evacuation camp and to the road all four of them were together. When they got on the

road they were first in the order the witness has described. There should be a limit to this constant repetition and repetition and repetition, for no particular purpose, so far as anyone can see.

MR. WARD: I think the purpose is going to be obvious.

COLONEL STICKNEY: Just a moment. Are you through?

MR. AITKEN: Furthermore, we have got a record here to take care of. Another thing we have got to reckon that the time of counsel and the Commission has some value also here and needs consideration.

MR. WARD: I believe at this time the Commission already sees what I am driving at. I would like to keep it from the witness for the time being.

COLONEL STICKNEY: In keeping it from the witness, you are keeping it from me. I cannot see what you are driving at.

MR. WARD: At this time will you rule on the motion, please?

COLONEL STICKNEY: The comments of the prosecution about desiring not to continue repeating the same things over and over are believed to be of value. However, in order to be sure not to limit the defense, the objection is not sustained.

(The reporter read the question.)

A As I said, that when we left the evacuation place to the road, we four were together.

Q Do you know why Dizon and Mirivelles were separated from you and Jonota?

A I did not know.

Q Were you ever closer to Dizon and Mirivelles than the ten soldiers during the entire trip to Magbuyo?

A When we were walking that we were already separated by a space of about ten soldiers, we were behind -- that means I and Tiburcio.

Q Did you ever walk with Mirivelles and Dizon again on that trip?

A How could I? Because we were already separated and they were far away from us.

Q Did they get farther away from you as you were walking to Magbuyo?

A Yes, because they were ahead they were going farther and farther away, although we were walking, but we were walking rather slowly.

Q While you were on the road, after you left the evacuation place, did the Japanese capture any more civilians?

A I did not see.

Q Did the Japanese thereafter walk in a column?

A Yes, they walked in a column.

Q Did they follow the road?

A Yes.

Q Did you see them attempt to capture any more Filipinos?

A I did not know.

Q You stated that Dizon and Mirivelles got farther and farther ahead, because they were walking faster. Was there a group of soldiers about them during that time?

A Those were the ten Japanese that were following them.

Q Were there any Japanese before them?

A Yes.

Q How many Japanese were before them?

A I could not tell.

Q Were there any Japanese behind you?

A No.

Q Is it not a fact that **both** Mirivelles and Dizon were guerrillas?

A I cannot tell.

Q Is it not a fact that Dizon and Mirivelles were USAFFE?

MR. AITKEN: I will object to it as immaterial.

MR. WARD: I would say it is very material.

COLONEL STICKNEY: Any argument?

MR. AITKEN: Yes. Immaterial for this reason: whether they were guerrillas or USAFFE and merely made prisoners because of such, the Japanese had no legal right to exterminate them without a trial of any kind, in the manner shown. Therefore, it is immaterial here. It can't help the defendant in any way.

COLONEL STICKNEY: Any reply?

MR. WARD: I believe it is self-evident how material the fact is -- whether they were guerrilla or USAFFE.

COLONEL STICKNEY: The objection is not sustained.

A I think they were not. They were civilians.

Q Would you say that Dizon and Mirivelles were not USAFFE or guerrilla?

MR. AITKEN: Objected to as already asked and answered.

COLONEL STICKNEY: Any reply?

MR. WARD: That question was not asked before.

COLONEL STICKNEY: The objection is sustained.

Q You state there were only ten soldiers between you and Roman Dizon and Mirivelles, is that correct?

A Yes.

Q The rest of the Japanese were all before them, is that right?

A Yes.

Q Were they all walking single file?

A Yes.

Q How many Japanese before Dizon and Mirivelles could you see while you were walking along?

A As I said before, that I didn't know.

MR. WARD: Repeat my question, please?

(The reporter repeated the question.)

MR. WARD: I will withdraw that.

Q Could you see all of the Japanese in the group that captured you as you were walking toward Magbuyo?

A I could not see others.

Q Where was Captain Nanjo in this line of Japanese soldiers?

A He was among those ten soldiers.

Q That is, he was between you and Mirivelles and Dizon, is that correct?

A He was among those who were following Mirivelles and Dizon.

Q Now, as you approached Magbuyo, you were walking up Magbuyo Mountain, were you not?

A Yes.

Q Will you illustrate about how steep Magbuyo Mountain is, as to the trail you were walking?

A Do you mean the height or the slope?

Q The slope. Indicating what type of degree?

A (The witness indicated with his arm.)

MR. AITKEN: What he indicated was forty-five degrees.

COLONEL STICKNEY: I would like to have the interpreter give us the answer to the question.

A The way was passing the ridges of the mountain and the slope of the mountain with relation to the road was like this (indicating). The road was going in a zig-zag way down and then up the slope.

MR. WARD: The slope is about thirty degrees or forty degrees?

MR. AITKEN: Thirty or forty degrees.

Q The Magbuyo River, does it run beside this road?

A There were other rivers that we passed, but I did not know their names.

COLONEL STICKNEY: It is understood in that last illustration that the thirty or forty-degree slope was the slope of the ridges up and down and not the slope of the zig-zag road, which naturally had a lesser slope.

MR. AITKEN: That is correct.

MR. WARD: That is correct, but the road was indicated as following the zig-zag ridges, is that correct?

COLONEL STICKNEY: I think not. I think the zig-zag road was gradually gaining and losing that height

by a zig-zag course.

INTERPRETER BELAONG: He means to say the road was going up and down, but it was in a zig-zag direction going up and down the slope.

MR. WARD: I think the record is clear now.

Q How far up Magbuyo Mountain had you gone when you threw down your load and started your escape?

A I could not tell how far it was.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness he is still under oath?

(Interpreter Belaong so informed the witness.)

Q When did you first reach the Magbuyo River?

A You mean when we reached the Magbuyo River that same day?

Q That is correct.

A In the afternoon when I was with Natividad Dizon.

Q Then you did not reach the Magbuyo River while you were with the Japanese, is that correct?

A I said that at that time when I was with the Japanese I did not know the rivers that we had crossed, only I was able to know the name of Magbuyo River when I was with Natividad Dizon.

Q What time of day were you captured at the evacuation place?

A I think it was about 7 o'clock in the morning.

Q This river you recognized when you were with Natividad Dizon, did you come to the same river while you were with the Japanese that morning?

A We passed also that river.

Q Does that river start at the bottom of the mountain, Mt. Magbuyo?

A I cannot tell.

Q How far up the mountain had you gone before you came to this river you now know to be named Magbuyo River?

A I could not tell how far it was.

Q One kilometer, four kilometers, five kilometers?

A I cannot tell because the way was following a zigzag course and also going uphill.

Q How long as to time had you been walking uphill until you got to the place where you threw down your load and escaped?

A It was already quite late, it was about, I think, 10 o'clock in the morning.

Q Had you ever been on Mountain Magbuyo before April 4, 1945?

A No, that was the first time.

Q You went back to that mountain that afternoon with Natividad, did you not?

A Yes.

Q About how tall is this mountain?

A I cannot tell.

Q Did you follow the same trail with Natividad that afternoon as you did with the Japanese that morning?

A It was a different trail.

Q Was it the same trail you used to escape?

A You mean to say the trail that I and Natividad Dizon passed?

Q No, the trail that you and Natividad took that afternoon, was that trail the same trail that you and Jonota escaped from the Japanese that morning?

COLONEL STICKNEY: I would like to make a suggestion. I think that is poorly worded, you mean on which they returned after escaping?

MR. WARD: Yes, sir.

COLONEL STICKNEY: That is just a suggestion.

MR. WARD: I will reword the question.

Q Was the trail that you and Natividad followed the afternoon of April 4, the same trail that you and Jonota followed when returning home after escaping from the Japanese?

A It was a different trail.

Q The trail you followed with the Japanese, was it very steep?

A That trail was also passing a steep grade and also a plain one.

Q While you were climbing Mt. Magbuyo, was the trail steep?

A It was also steep, also plain, and also sloping down.

Q The place where you escaped, where you threw down your load, were you going up, level, or down?

A I could not remember now because of our fear when we were escaping. We were running at that time.

Q When you threw down your load, how far ahead of you was the last of the ten soldiers that were following Dizon and Mirivelles?

A I could not tell how far we were because we were running when we escaped.

Q Just before you threw down your load, before you started to run, how far ahead was the last of the ten soldiers that were with Mirivelles and Dizon?

A We were about a distance of both arms' length from the last of the ten soldiers.

Q How far ahead of you were Dizon and Mirivelles?

A I was not able to observe how far they were from us because we were thinking at that time of escaping.

Q Was it possible for you to see them at that time?

A We were not looking then because what we had in mind was to escape.

Q At the time you were thinking of escaping, did you not notice the positions of the ten soldiers immediately between you and Mirivelles and Dizon?

A They were walking.

Q Did you not notice their positions and the distances away from you?

A We were not able to observe their positions because we were grossly thinking of escaping.

INTERPRETER BELAONG: I will reword that.

"Because we were engrossed in the thought of escaping."

Q When you threw down your load and started to run, did the soldiers fire at you?

A Yes.

Q Were they firing down on you, up to you, or were they firing on a level with you?

A I could not tell because we were running and all that we could hear was the fire of the shots.

Q Just before you started to run, were the soldiers ahead of you, higher than you?

A Those soldiers were going down and we were still in the upper parts.

Q Was there a river near the trail?

A Yes.

Q At the place where you escaped, was there much shrubbery and grasses?

A Yes.

Q Did you use these grasses and shrubbery to hide in as you ran from the Japanese?

A I could not remember whether those were the grasses and shrubbery that were used by us because we were running.

Q How tall were these grasses? Please indicate.

A They were many kinds of grasses at that time. There were tall ones, low ones.

Q How tall were the tall ones?

A (Indicating) From the ground up to this height I have indicated.

MR. WARD: About five feet, counsel?

MR. AITKEN: Yes, five feet, I guess.

Q How tall were the low ones?

A (Indicating) Others were as high as this.

MR. WARD: Three feet, counsel?

MR. AITKEN: Three feet.

Q Were there any bushes?

A There were other bushes there.

Q How tall were they?

INTERPRETER BELAONG: "There were many bushes."

Q How tall were these bushes?

A I could not tell exactly.

Q About as high as this roof?

A Others were as high as that and others were still taller than that.

Q Did you use these bushes to hide when you ran from the Japanese?

A Those were not the bushes.

Q What bushes did you use to hide from the Japanese?

A There was a big tree where we hid behind.

Q How far was that tree from the trail?

A I cannot tell how far.

Q Was it before the bank of the river, before you reached the bank of the river?

A That tree where we hid behind happened to be a tree which we did not pass on our way.

Q Was that tree before you reached the bank of the river or on the other side of the river?

A It was on the other side of the bank.

Q Did you hide from the Japanese before you crossed the river as well?

A You mean at the time when we escaped?

Q That is right.

A Yes.

Q Did you hide between the trail and the first bank of the river?

A We hid in that big trees I told you.

Q Did you hide before you reached that tree as well?

A No, we didn't because we ran all the way through until we reached that place.

Q When you ran, when you threw down your bundles and ran, did you run directly away from that Japanese that was before you or did you cut off to one side?

A When we escaped we followed back the trail and ran away.

Q When you threw down your bundles, you started at that time back around the trail, is that correct?

A When we threw down our bundles, we ran back on the trail.

Q How far back the trail from the place you threw down your bundles did you run before you left that trail to go to the river?

A I could not tell.

Q Did the Japanese fire a shot at you while you were still on the trail?

A I cannot remember now.

Q Did Jonota run along immediately beside you?

A I could not tell where he was at that time, but we were running the same time.

Q Were you together during your escape?

A He was running, as I was also trying to escape.

Q Was he leading you or did you lead him?

A I cannot tell now.

Q Did you pause at the river to see how close the Japanese were to you at that time?

A No.

Q When did you first see the Japanese again after you threw down your bundle?

A When we were already in our hiding place, and we could see them on the other side of the hill.

Q Were they still firing in your direction?

A No more.

Q Were they on the other bank of the river?

A Yes.

Q Did they try to cross the river?

A I could not say. I have not seen them any more.

Q Were the grasses and bushes very heavy where you were?

A Yes.

Q The Japanese on the farther bank that were looking for you, were the grasses and bushes very heavy there, as well?

A Not so very thick.

Q How many Japanese did you see on the other bank of the river looking for you?

A There were many. I could not count.

Q Were there more than ten?

A In my estimate, there were even perhaps more than one hundred.

Q Could you see the bundles you threw down from the place you were hiding?

A No.

Q Did you see any Japanese pick those bundles up?

A I cannot tell.

Q Could you see the place that you threw down your bundles from where you were hiding?

A The place where we threw our bundles I could not tell exactly where.

Q Could you see the trail that you had followed from the place you were hiding?

A No.

Q Was the trail hidden by the grasses and bushes?

A Yes.

Q Were these grasses and bushes very heavy along that trail?

A Not so very thick.

Q But they were sufficiently heavy that you could not see the trail?

A Yes.

Q Were you able to see any Japanese walking along that trail?

A Do you mean when we were already hiding?

Q Yes.

A I was not able to see them, as they were walking. I was only able to observe and see them when they were already up in the hill gathered.

Q By "up in the hill" how much higher up in the hill were they than your hiding place?

A The place where they were gathered around was higher than our place.

Q How much higher? Please indicate on that building over there (pointing to the Army and Navy Club).

A I think it is as high as from the place where I am now up to that temporary construction over the top of the Army and Navy Building where the men are working.

MR. WARD: Would that be about seventy feet tall, approximately?

MR. AITKEN: From the top?

MR. WARD: Yes. I think you mentioned yesterday about forty-five feet would be the height of the building.

MR. SCHAUER: I believe about sixty-five feet.

MR. WARD: The top of that building.

MR. AITKEN: Yes, I guess so.

MR. WARD: About seventy feet, let the record show.

Q Were there any trees at the place where the soldiers gathered?

A There were trees below.

Q Were there any bushes or grasses where the soldiers gathered?

A There were cogon grasses.

Q How tall does that type of grass grow?

A I could not tell how tall was that type of grass, because we were far away from them.

Q How tall does that type of grass usually grow?

A I think it is about this high-- (Indicating from the floor up to this height.)

MR. WARD: Let the record show about three-and-a-half feet.

MR. AITKEN: Yes.

A (Continued)---- because that place was almost barren.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Interpreter Belaong so reminded the witness.)

Q You state from where you were to the group of soldiers on the hill was about the height of the top of the scaffolding on the Army and Navy Club, is that correct?

A Yes.

Q How far from where you were behind the tree was the river?

A I cannot tell how far the tree was from the river.

Q Approximately how far?

A That place where we were hiding was at the bank of a brook.

Q Is this the Magbuyo Brook?

A I said, I cannot tell what brook that was.

Q It was not the Magbuyo River, is that correct?

A Yes.

Q Yes, it was not, is that right?

A I mean I cannot tell whether it was the river Magbuyo.

Q Could you hear the brook from where you were hiding on the hill?

A I could hear because we were on the upper bank of that brook.

Q How far down the bank was the water from where you were hiding behind the tree?

A It was some distance from the water because that place was higher.

Q Was it as far as from where you are sitting to that

truck parked over there without the top?

A I could not tell because the position was this, the space between the place of the bank where we were hiding to the water was covered by trees.

Q Could you see the opposite bank?

A Yes.

Q How far were you from the opposite bank?

A I think from this place up to that garage shop.

Q What part of the garage shop?

A I mean that place where there is an electric lamp.

MR. WARD: Electric what?

A Electric lamp across the top of that garage.

MR. AITKEN: That is on the corner of the building. The flood light.

MR. WARD: What about the distance, I paced that the other day. It was 200 feet, wasn't it?

MR. AITKEN: Two hundred to 220.

MR. WARD: All right. Two hundred to 220 feet. It is so stipulated.

INTERPRETER BELAONG: Please change the word, "lamp" to "electric bulb."

COLONEL MacKINTOSH: What was the distance estimated?

MR. WARD: Two hundred to 220 feet.

Q From where you were hiding behind the tree, was the top of the other bank higher or lower than your position behind that tree?

A From the bank where we were hiding and the other opposite bank were about of the same height.

Q And were there many trees and bushes on the opposite bank as well as on your side?

A Yes.

Q How far were you from the top of your bank?

A Do you mean going down the brook?

Q How far from the top of the bank on your side of the brook was this tree behind which you were hiding?

A I could not tell.

Q Were you near the top of that bank?

A Very near the top.

Q How far from the opposite bank of the river was the trail from which you had escaped?

MR. AITKEN: Just a moment. Might I suggest that instead of using the word "escaped" use the "place where you threw your bundles down," because I know these witnesses have the idea of "escape" as including the whole episode and it does not concrete the question.

MR. WARD: That is a very good suggestion; I will withdraw the last question.

Q How far from the opposite bank was the trail where you threw down your bundles?

A I said before that I cannot tell where we threw that bundle.

Q How far from the opposite bank were the soldiers that you saw up on the hill?

A I already have indicated the distance as from here up to that place, indicating from here up to that scaffolding where the men are working.

Q That is both the distance and the height from where you were hiding, is that correct?

A Yes.

Q Then the group of soldiers was very near the opposite bank, is that true?

A As I have indicated the distance from where I am now up to the scaffolding where the men are working on top of the Army and Navy building, if you would look straight through it was near, but if you walked through it, it is some distance because of the way going up and down.

Q Approximately how many soldiers were in this group you saw up on the hill?

COLONEL STICKNEY: Don't we have that already?

MR. WARD: Not from this witness.

COLONEL STICKNEY: Didn't you ask him "Was it ten?" and didn't he tell you it was nearly 100?

MR. WARD: That represented the amount of soldiers that captured him and that were along the trail, but the amount of soldiers up in this group has not been testified to as yet.

COLONEL STICKNEY: It strikes me it is the same thing. It is just a suggestion, however.

MR. WARD: There were quite a few soldiers looking for him on the banks of the river, he has testified. However, he does not see any more soldiers until he sees this group on top of the hill. Now, I want to know if all the soldiers, the 100, were up there or whether there was a lesser amount.

COLONEL STICKNEY: I am just making a suggestion,

you go right ahead.

MR. WARD: I will withdraw the last question.

Q Were all the soldiers, approximately 100, that is, in this group up the hill from where you were hiding?

A Yes, I think they were the same number, but that was only my estimate.

Q Was Captain Nanjo one of the soldiers on the opposite bank of the river from your tree when you were escaping?

A You mean when we were escaping?

Q Yes.

A When we were in our hiding place looking towards them on the opposite bank of the river, I could see Roman Dizon, Benito Mirivelles, and other soldiers, and Captain Nanjo.

Q Could you see Corporal Nakatani there as well?

A I was not able to observe.

Q Did you see Corporal Nakatani at any time during this trip and your capture?

A I was not able to observe.

Q In this group of soldiers on the hill, where was Captain Nanjo standing?

A He was standing in front of Roman Dizon.

Q Where were the rest of the Japanese soldiers, the approximate 100?

A They were behind Captain Nanjo.

Q Were there any in front of Captain Nanjo?

A Near him?

Q Were there any between Captain Nanjo and yourself?

A I was not able to see any soldier but I saw Roman Dizon.

Q All right. From your position at the tree were there any soldiers standing between Captain Nanjo, Dizon, Mirivelles, and yourself, or were they all standing in a semi-circle behind them?

A The soldiers were standing behind Captain Nanjo in a semi-circle.

Q Where were Dizon and Mirivelles standing in relation to Captain Nanjo?

A Behind Captain Nanjo were the soldiers and in front of Captain Nanjo was Dizon standing.

Q And all of the rest of the soldiers were standing behind them, is that correct?

A That is correct.

Q Could you see Captain Nanjo's face?

A I could see his face clearly because I could see plainly from the place where I was hiding.

Q And you say Dizon was facing Captain Nanjo, is that right?

A Yes.

Q Then Dizon's back was toward you, is that right?

A Yes.

Q And Mirivelles -- where was he again?

A Mirivelles was near Dizon.

Q Was he behind Dizon?

A He was beside Dizon.

Q Was he facing Captain Nanjo or facing you?

A He was facing Captain Nanjo.

Q Stating that each of the interpreters, one represents Dizon, one represents Mirivelles, would I be standing where Captain Nanjo was? (Mr. Ward took a position before the interpreters.)

A (Indicating) You are Captain Nanjo. I am Dizon, and this is Mirivelles.

MR. WARD: Let the record show that I was standing immediately before the two interpreters. The interpreter on the right would be in a similar position to Dizon; the interpreter on the left would be Mirivelles.

Q Were Dizon and Mirivelles standing?

A When I first saw them, they were standing.

Q At that time you state there were no soldiers behind them, is that correct?

A Yes.

Q Were there any trees or bushes behind them?

COLONEL STICKNEY: In these last two questions, it strikes me that the viewpoint has changed. Am I right? We are no longer looking from behind a hill; we are now looking from the viewpoint of a man standing in the imaginary position of Captain Nanjo, is that right?

MR. WARD: The viewpoint is still the same. Using the positions as we have indicated, the witness would be facing me and the river banks, which would be approximately the difference from here to the scaffold.

COLONEL STICKNEY: We are not so much interested in distances as in directions. When you speak of somebody being behind Dizon, it is not clear to me from which position you are speaking. I believe you have changed your position from 180 degrees --

MR. WARD: I will withdraw the question.

Q Were there any soldiers at the rear of Dizon and Mirivelles?

A I already said that there were no soldiers behind them, only behind Captain Nanjo were the soldiers.

Q Were there any trees or bushes behind them?

A There were grasses below.

Q But no grasses immediately behind Mirivelles and Dizon, is that correct?

A There were.

Q In other words, the grasses grew all over this hill, is

that correct?

A Yes.

Q When you first saw Captain Nanjo, did he have his back toward you?

A When I looked towards them he was already facing Dizon.

Q And similarly he had been facing you at the same time?

A Yes.

Q You stated on direct examination that you saw Nanjo draw his sword, is that correct?

A I saw him having his saber in his hands.

Q Was the saber raised or down when you first saw him?

A The saber was raised.

Q How long did Captain Nanjo keep that saber raised?

A Not very long.

Q In other words, the first time you looked up in the hill and saw this group of soldiers, you saw Captain Nanjo with his sword up -- right?

A Yes.

Q And both Dizon and Mirivelles were standing -- is that correct?

A Yes.

Q Then you saw Captain Nanjo bring his sword down -- right?

A He lowered it down when he hacked Dizon.

Q And Dizon was standing, is that correct?

A When he hacked Dizon, Dizon fell.

Q When he hacked Dizon, was Dizon standing?

A Captain Nanjo first made him kneel.

Q When he made him kneel, was his sword up in the air all during that time?

that correct?

A Yes.

Q When you first saw Captain Nanjo, did he have his back toward you?

A When I looked towards them he was already facing Dizon.

Q And similarly he had been facing you at the same time?

A Yes.

Q You stated on direct examination that you saw Nanjo draw his sword, is that correct?

A I saw him having his saber in his hands.

Q Was the saber raised or down when you first saw him?

A The saber was raised.

Q How long did Captain Nanjo keep that saber raised?

A Not very long.

Q In other words, the first time you looked up in the hill and saw this group of soldiers, you saw Captain Nanjo with his sword up -- right?

A Yes.

Q And both Dizon and Mirivelles were standing -- is that correct?

A Yes.

Q Then you saw Captain Nanjo bring his sword down -- right?

A He lowered it down when he hacked Dizon.

Q And Dizon was standing, is that correct?

A When he hacked Dizon, Dizon fell.

Q When he hacked Dizon, was Dizon standing?

A Captain Nanjo first made him kneel.

Q When he made him kneel, was his sword up in the air all during that time?

A Immediately after he ordered him to kneel down, he immediately also hacked him.

Q Did you hear him order Dizon to kneel?

A No, because he was far.

Q Did you see Captain Nanjo push Dizon down?

A As I was looking towards them I saw him making a sign to Dizon to kneel.

Q Did Mirivelles kneel at that time?

A Yes.

Q Then, while you were watching Captain Nanjo had his sword up and he motioned both of them to kneel, is that right?

A Immediately after he gave a sign to Dizon to kneel, Captain Nanjo immediately hacked him.

Q Had Mirivelles kneeled at that time?

A When Dizon fell, he immediately gave a sign also for Mirivelles to kneel and he also hacked him.

Q Will you please illustrate how Dizon knelt?

A As Dizon was having his hands tied behind his back, he knelt that way. (Indicating)

MR. WARD: Indicating he knelt on his knees, the body partially bent forward.

Q When Captain Nanjo hacked at Dizon where did he strike him?

A As to where he was hit I was not able to know, but all I knew was that Dizon immediately fell.

Q Did he strike him about the head or about the trunk of the body? (Indicating between the shoulders and the waist.)

A At that time when I was looking at them, I did not know exactly the location where Dizon was hit. I was only able to

ascertain where he was hit when I and Natividad came back and found them dead.

Q When you illustrated what position Dizon had taken upon being ordered to kneel by Captain Nanjo, you had your hands behind your back. Did that mean that Dizon was tied at that time?

A Yes.

Q Could you see the ropes holding his hands together?

A I saw the ropes that tied his hands behind his back when we were arrested. At the time he was hacked, I was not able to see the rope at that time.

Q You state that Dizon fell, is that correct?

A Yes.

Q Did Captain Nanjo strike him once or more than once with the saber?

A At the time when I was looking at them when Dizon was being hacked I saw that he was hacked once. However, in the afternoon when we came back with Natividad Dizon I saw that there were two wounds on Dizon.

Q Did Dizon fall forward on his face?

A He fell sideways, because he was tied with hands behind.

Q Could you see if he was bleeding or not?

A When we came back later we found blood on his body, but at the time he was hacked I was not able to see blood from his body.

Q You state you could not tell where about the body Captain Nanjo's blow struck, is that correct?

A Yes.

Q But after the blow you saw Dizon fall, correct?

A Yes.

Q And he fell on his side -- right?

A I said that at the time when we came back to find the bodies he was lying sideways.

Q Did you see how he fell after Captain Nanjo struck him?

A As I was looking from our place I was not able to observe exactly how he fell.

COLONEL STICKNEY: The Commission will adjourn, and reconvene at 1300 hours.

(The Commission recessed at 1130 hours to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

The Commission met, pursuant to recess, at 1300 hours.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all of the members of the Commission, the prosecution, defense counsel Ward, the defendant and his personal interpreter, the interpreters and the reporter are all present in Court.

Please remind the witness that he is still proceeding under oath?

(Interpreter Belaong so reminded the witness.)

MR. AITKEN: At the end of the last session, Gil Tanique was undergoing cross-examination.

GIL TANIQUE

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

FURTHER CROSS-EXAMINATION

BY MR. WARD:

Q You stated you saw the sword blow of Captain Nanjo strike Dizon, but that you could not tell where Dizon was struck, that is correct, is it not?

A Yes.

Q And that Dizon fell, correct?

A Yes.

Q Could you see Dizon on the ground after he had fallen?

A I was not able to see him, only I was able to see when he fell.

Q You could see no blood, is that correct?

A No.

Q Did you see anyone else inflict a blow upon Dizon?

A No other.

Q Now you state that after Dizon fell, Captain Nanjo indicated Mirivelles to go down on his knees, is that right?

A Yes.

Q And that you then saw him strike a blow on Mirivelles, is that right?

A Yes.

Q Where did he strike Mirivelles about the body?

A I could not see in what part of the body he was hit because I was far away.

Q Could you tell if it were about the head or about the waist?

A I could not tell. All that I was able to see in him was at the time when we came back with Natividad Dizon.

Q Then, all you actually saw was a sword go up and a sword come down; you did not see the sword strike the body, is that correct?

A When I was looking I was not able to observe in what part of the body he was hit.

Q Then, you did not see Captain Nanjo actually strike Mirivelles, isn't that right?

A I saw Captain Nanjo deliver a blow on Mirivelles. At that time, however, I was unable to observe just in what part of the body he was hit. Only in the afternoon I was able to ascertain his wound when I came back with Natividad Dizon.

Q Did Mirivelles fall to the ground?

A Yes.

Q Could you see the body of Mirivelles on the ground?

A When he was falling I was able to see him, but when he was lying on the ground I could not see him.

Q Did you see more than one blow delivered at Mirivelles?

A I have not seen another.

Q You saw no soldier delivering a blow to the body of Mirivelles?

A I was not able to see a soldier to have delivered a blow or wound to Mirivelles. Only I was able in the afternoon to ascertain that Mirivelles received two wounds.

Q Did you see any blood on the body of Mirivelles?

MR. AITKEN: At what time?

Q At that time.

A When I went back to the place with Natividad Dizon, that was the time when I saw him with blood on his body.

Q You saw none at the time he was struck?

A You mean when I was far?

Q Yes.

A I could not see because I was far away.

Q What did the soldiers do after you saw this happen?

A They continued their way up.

Q How long a period of time was there between the time you escaped dropping your bags on the trail, to the time when you saw the group of soldiers gathered about Dizon and Mirivelles?

A I said before that it was about 10 o'clock.

Q What time elapsed in the number of minutes or hours from the time you left the trail in escaping from the Japanese until the time you reached your hiding place at the tree?

A I think at the time when we were looking at them in our hiding place it was about 12 o'clock.

Q Then, from the time you escaped, that is dropped your bags from the trail and ran, until the time you reached your hiding place and saw Mirivelles and Dizon, about two hours had elapsed or passed?

A I only estimate that time. I was not very sure that it was two hours.

Q But it would be more than an hour and a half, would it not?

A I don't know. I cannot tell.

Q What makes you give an estimate of two hours?

A I was not very sure it was really two hours, that it took us two hours. I was only estimating the time.

Q Did you immediately leave your hiding place and go home immediately after the Japanese left their position on the hill?

A Yes, we went home.

Q What time did you get home?

A Because of our fear I was not able to observe what time it was when we reached home.

Q About what time?

A I cannot estimate what time.

Q You then went to the home of Dizon and Mirivelles, did you not and saw Dizon's daughter?

A Yes.

Q Did you leave To-ong immediately and go back to the Magbuyo Mountain?

A I and Natividad Dizon went.

Q Immediately?

A We stayed a little time and then walked.

Q Did you go to your home?

A Yes, I went home.

Q Then you came back to Natividad, did you not?

A Yes.

Q About what time of day was that?

A The sun was overhead.

Q Then it was approximately noon when you returned to Magbuyo Mountain?

A I think it was about noon.

Q How long did it take you to get back to Magbuyo Mountain?

A Quite long, because on our way while we were walking we were also on the lookout that Japanese might be around.

Q Did you see Americans around at that time?

A No.

Q You stated that you went back to Magbuyo Mountain by a different trail, is that correct?

A Yes.

Q Did you follow the Magbuyo River?

A I was not able to know whether the rivers that we were passing was Magbuyo, but, when we were about in the vicinity of the place, Natividad told me that perhaps it was Magbuyo River.

Q Did you follow that river up Magbuyo Mountain?

A We just crossed it.

Q Did you again go to the place where you were previously hiding behind the tree?

A No more.

Q Did you find the place where you had first seen the soldiers on the hill?

A Yes, we were able to find the place because that was the place where the two victims died.

Q How far from that place did you find the bodies of the two victims?

A What place do you mean?

Q The place where you saw the soldiers on the hill and you saw Captain Nanjo strike at them with the sword, how far from that place did you eventually find the bodies when you returned with Natividad?

A When we arrived in that place we found the victims and there were no more soldiers.

Q Did you search the bodies of the victims?

A Natividad Dizon examined the bodies.

Q Were you with her at that time?

A Yes, we were together going there.

Q Were you previously searched by the Japanese at the evacuation place of Dizon? In other words, did the Japanese go through your pockets?

A Yes.

Q Did they go through the pockets of Mirivelles, Dizon, and Jonota?

A Yes.

Q Did they find any money in your pockets?

A From my pockets they were not able to get anything, but from the pockets of my companions I don't know.

Q Did you see them search Dizon?

A Yes.

Q Did you see them pull out some guerrilla money from his pocket?

A I was not able to observe because soon after I was searched I turned my back.

Q Did you see them search Mirivelles?

A I was not able to observe because I turned my back towards them.

MAJOR FRITZ: Will the reporter read that answer, please? I could not hear it.

(Last answer read by reporter.)

Q Did you hear the Japanese question Dizon and Mirivelles as to their having guerrilla money in their pockets?

A I was not able to observe at that time because I was much frightened.

Q Did you not hear the Japanese questioning Dizon and Mirivelles about the guerrilla money found in their pockets?

A I cannot remember.

Q Is not it a fact that the reason that you and Jonota were released and told to carry the packs and that Mirivelles and Dizon were still bound was because they had guerrilla money in their pockets?

A I cannot tell.

Q In other words, you know nothing about that, is that right?

A I do not know what was the reason why they were tied.

Q Going back through the mountain -- Magbuyo Mountain -- when you were there with Nat'vidad, did not Natividad take some guerrilla money fr m the pocket of her father's clothing?

A No.

Q Is it not a fact while you were there Natividad also took some guerrilla money from the body and clothing of Mirivelles?

A I don't know if she was able to find any.

Q You were standing right beside her, were you not?

A Yes, I was standing near her, but I was on the lookout, because we were afraid there might be some more Japanese still in that vicinity.

Q And you still say you did not see Dizon's daughter take guerrilla money from the pockets of her father or say something about it?

A I do not know.

Q Did you not tell Mirivelles's daughter that the reason her father was apprehended and killed by the Japanese was because he had guerrilla money on him when he was caught?

A I did not tell her.

Q How well did you know Mirivelles?

A Since I was small I and Mirivelles knew each other.

Q Is it not a fact that Mirivelles sold food produce to the guerrilla forces?

MR. AITKEN: I object to that as immaterial.

MR. WARD: It is material on its face. Certainly it is material, especially in view of the previous questions.

MR. AITKEN: I have allowed a lot of previous questions to go in without objections, but I have been consistent throughout this case in the position that the relationship with the guerrillas is not material to this case, for the simple reason that if such a relationship even did exist, it did not provide the defendant with the right to execute suspected guerrillas.

MR. WARD: At this time Mr. Aitken has stated his objection on the ground that if they were related to guerrillas it would make no difference. It is judicial knowledge that the Commission is invited to take cognizance that those so-called civilians that sold produce and gave information to the guerrilla forces about the moves of the Japanese were in a similar capacity as spies and in a time of war they would certainly have the right to apprehend those people. Bringing out the facts as to the possession of guerrilla money, as we are attempting to do now, confirms that belief. It certainly shows the Japanese right to apprehend and that alone would be sufficient materiality to go into the question.

MR. AITKEN: May I add to what he was saying, in response -- there is no evidence in this case that there was any guerrilla money found on anybody. There is no evidence in this case that these people had any affiliations whatever with guerrillas. On the other hand, there is evidence in this case that they were

simple civilians and they were not guerrillas and the Commission cannot assume nor has the defense any right to assume here that they were guerrillas or that there was guerrilla money or guerrilla paper in connection with these people. If the defendant suspected them of being guerrillas, that is all right. He had a right to have any suspicions he wanted, but legally he could not take suspected people and execute them; and consequently, whether they had guerrilla money or had affiliations with the guerrillas, or whether he even thought and had reasonable thought that they had some connection with guerrillas, he could not take those people out and execute them. Therefore, any questions along those lines are immaterial.

MR. WARD: Mr. Aitken is two-sided in his argument. He states the defendant would have a right to apprehend them upon reasonable suspicion that they were either guerrillas or spies for the guerrillas.

MR. AITKEN: I did not say that.

MR. WARD: Well, it was a comparable thought. The Commission can take notice of what he said. But Mr. Aitken has implied that we have no right to go into that fact. It is a material fact in trying these Japanese. If we should prove that these people had these relationships and were spying on the Japanese forces, it would make material difference as to either mitigating the crime, if there was one committed, or alleviating completely the defense upon proving that they were spies.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

A I do not know.

Q At the time you were with Natividad on Mt. Magbuyo with the bodies of Dizon and Mirivelles, is it a fact that you did not examine the bodies of either of them personally?

A I was able to observe that of Dizon's.

Q And you state positively that no guerrilla money was taken from Dizon's body, is that correct?

A I was not able to see, because soon after I saw the dead body of Dizon I immediately turned around to be on the lookout.

Q Were there any other Filipinos beside you and Natividad there at this time?

A I have not seen any.

Q Did you bury the bodies at that time?

A Yes.

Q Did you dig a hole for them?

A Yes, we dug a hole, but they were shallow.

Q Did you take the personal effects -- that is, money, if any -- and other materials from the pockets of the bodies before you buried them?

A I myself, I did not take it.

Q And you state you did not see it taken, is that right?

A Who do you mean was taking?

Q You did not see Natividad take the personal effects of the two dead persons?

A I said before that I did not know.

Q Did you carry any of the possessions of the two dead people back to To-ong?

A I said before that I, myself, personally, I have not got anything.

Q You stated once you had three children, is that not correct?

A Yes.

Q How old is the youngest?

A I said before that my youngest child was born on the 18th of February, 1945.

Q You are absolutely sure it is 1945, is that correct?

A Yes.

Q It could not be 1944, is that right?

A No.

Q And that is the youngest of your children?

A Yes.

Q And that would make her a year-and-a-half or more old? Is that right?

A From the 18th of February, 1945, up to now, it should be calculated how old is the child.

Q I want to ask the question once more and I want you to recall very carefully -- no mistake: the 18th of February 1945 -- is that right? That was the birth of your last child?

A I am very sure.

Q On that day you saw Primitiva Casabuena, is that right?

A Yes, that was the day when her son was arrested.

MR. WARD: I think that is sufficient for the defense.

COLONEL STICKNEY: Will the reporter read the statement just made by the defense counsel?

(The reporter read the statement of Mr. Ward.)

COLONEL STICKNEY: Any redirect examination?

MR. AITKEN: I have a few questions.

REDIRECT EXAMINATION

BY MR. AITKEN:

Q I am going to place myself here in the position that the defense counsel did when he was representing himself as Captain Nanjo, with the interpreter on my right hand here as Roman Dizon and the interpreter to his right as Mirivelles. I want to ask you in what relative position you stood when you said you could see them. Were you there, or here, or there, or over there? (Indicating all four directions)

A I was in the direction behind you -- meaning behind the interpreters.

Q Do you know Magdaleno Dizon and Roman Dizon --

COLONEL STICKNEY: Just a moment. I wonder if this is now in the record, the way you were standing? Are you satisfied we have it in the record for the reviewing authority?

MR. AITKEN: I don't think so. I will clear it up.

Q The answer states that "I was behind you and behind the interpreters." What do you mean -- behind me?

A At our hiding place Captain Nanjo, when we were looking towards him, was facing us and these two victims, Mirivelles and Dizon, had their face towards Captain Nanjo.

Q Now, do you know the two brothers of Natividad Dizon --
Magdaleno and Roman Dizon?

A Yes.

Q How old are they, about -- approximately?

A This is only my estimate: Magdaleno is about
18 years old; Roman is about 17.

Q Now, in the afternoon that you saw Natividad and
went back with her to the scene where her father was
killed, did you see those two brothers?

A I saw them in their house.

Q Did they accompany you to Magbuyo?

A No.

MR. AITKEN: No further questions.

COLONEL STICKENY: The Commission will take
a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under oath?

(Interpreter Belaong so reminded the witness.)

MR. SCHAUER: I believe that Mr. Ward was conducting the cross-examination, is that right?

MR. AITKEN: The prosecution has finished.

COLONEL STICKNEY: There is no recross-examination?

MR. SCHAUER: I don't know. I understood Mr. Ward to say as he went out, that he had a few questions but that the Commission was going to question.

COLONEL STICKNEY: Where is Mr. Ward?

MR. SCHAUER: He went to contact Captain Yard of the prosecution with regard to the witnesses in this case, and I don't know whether he has had some delay in getting him.

COLONEL STICKNEY: Did he know we had a ten minute recess?

MR. SCHAUER: Yes, I am sure of it.

COLONEL STICKNEY: I believe you had better represent him.

MR. AITKEN: There was nothing really brought out on redirect except one question.

COLONEL STICKNEY: Do you have any recross-examination?

MR. SCHAUER: I have no questions.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q What is the name of your daughter who was born the 18th of February, 1945?

A She was not yet baptised.

Q Does she have a name?

A I simply call her Luz.

Q And what are the names of your two other children?

A The oldest one is Rosita Tanique, the second one is Teresita Tanique.

Q Now, are you acquainted with the south part of the Concepcion-Dos Hermones Road?

A I do not know that road.

Q Do you know a place toward the mountains northeast of Concepcion called San Juan?

A I only heard of that name San Juan, but I do not know in what direction or in what part of the country it is.

Q Just previous to his death, how often did you used to see Roman Dizon?

A Since we were small we knew each other. At that time, however, we only saw each other occasionally.

Q About how often?

A Do you mean before the war?

Q No, just before he was killed.

A You mean to say during the war?

Q I mean to say just before he was killed.

A We saw each other only occasionally because most of the time each of us was hiding.

COLONEL STICKNEY: Will you read that last to me,

please?

(Last answer read by reporter.)

Q Well, how often did you see him along about that time?

A At times in two weeks we could not even see each other.

Q And how often did you see Mirivelles just before he was killed?

A We also saw each other occasionally, because his house was far from mine.

Q How often did you see him?

A At times we saw each other in a week. At times we don't see each other for over two weeks.

Q Do you know what Mirivelles was doing at the time?

A Do you mean at the time when we were caught?

Q I mean just before he was killed.

A He was farming, producing casava and other tubers.

Q On the day that you were apprehended, was Mirivelles in his field staking his carabao

A I don't know in whose field it was the day that I saw him that he was tying his carabao for pasture.

Q But is that the place where he worked normally?

A That place was separated from the land where he was working.

Q By what distance was it separated?

A I think that was about five hundred meters from his house.

Q And what was Dizon doing at that time?

A He was also in the field tying his carabao for pasture.

Q And what did he do for a living that month?

A I do not know.

Q To your knowledge did either of these men belong to a military organization?

A I cannot tell.

Q To your knowledge was either of them given a trial?

A What do you mean, they were given a trial?

Q Do you know the meaning of a trial?

A As I understand, trial means the act of getting declaration.

COLONEL STICKNEY: I will withdraw the question.

Q Do you know what Captain Menjo's position was on the 4th of April, 1945?

A He was a captain.

Q Do you know whether he at that time commanded a garrison or not?

A I cannot tell because that was only at the time when I was able to see him when he captured us.

Q Well, you had seen him on the 18th of February, 1945, had you not?

A Yes, I saw him.

Q Do you know whether or not he was a garrison commander on the 18th of February, 1945?

A Before that year I saw him already at Boroboro garrison.

Q Was it a well known fact at that time that he commanded the Boroboro garrison?

A Yes.

Q Do you know whether or not he still commanded the same garrison on the 4th of April, 1945?

A I cannot tell whether he was still the commander at that time.

Q Do you know the size of the Boroboro garrison?

A Yes.

Q How many men did it have?

A I cannot tell you how many soldiers there were.

Q What did you mean when you said you knew the size of the garrison?

A Before the war that Boroboro was a place that was enclosed with fence. Its shape was square, and I used to be there.

Q Now do you know the reason for the expedition on which Captain Nanjo was moving on the 4th of April, 1945?

A That was for their evacuation going to the mountains.

Q Do you know why he took you with him?

A I did not know.

Q Do you know where he was going in the mountains?

A I did not know.

Q What was the nature of the load that you were forced to carry?

A I do not know because I could not tell what was inside the load that I was carrying.

BY MAJOR HERR:

Q How long did you live in the house that you occupied when you were apprehended by the Japanese in February, 1945?

A Do you mean the length of time that I lived in my house?

Q That is right.

A I could not tell because at times we left our house, and resided temporarily in other places to hide away from the Japanese.

Q Were you born and raised in the general neighborhood of the house that you lived in in February, 1945?

A I was not born there.

Q Were you born in the neighborhood of that house, within a few kilometers of it.

A I was born in Granada, Barrio Granada.

MAJOR HERB: That is all.

BY COLONEL MacKINTOSH:

Q Did you see any other Japanese officers in the party that apprehended you on the 4th of April, 1945, besides Captain Nanjo?

A I saw some officers, but I did not recognize them.

Q How many?

A I could not tell because they were many.

Q Were there as many as ten?

A I think more than ten because of that number of about a little more or less of one hundred soldiers, officers should also be correspondingly increased.

Q How many men were with these officers?

A I cannot tell.

Q As many as twenty with each officer?

A I could not ever think of that because of my fright.

I could not do anything so I could not tell how many men were assigned to each officer.

Q Were the officers dressed the same or differently than the soldiers.

A They were dressed the same, but I could tell only that they were officers because they were using a saber and a pistol, and their soldiers also used to call them Captain.

Q How many different Japanese did you see on the 4th of April, 1945, with swords and pistols?

A I answered before that I did not know how many of them.

Q Did you see more than ten?

A I cannot say whether more or less than ten, because of the number of their soldiers.

Q You saw more than one?

A More than one.

Q When you saw the officer strike Dizon with the saber was it Captain Nanjo or was it one of the other officers that you saw?

A I said before that it was Captain Nanjo who gave the blow to Dizon.

Q How did you know that it was Captain Nanjo?

A Because I knew him.

Q Did you know him because you could see his face, or because of the way he was dressed?

A I knew him because of his face.

Q How many times had you seen Captain Nanjo before the 4th of April, 1945?

A Many times.

Q If your friend, Jonota, was up on that scaffolding where these men are working, could you tell that it was he, or could it possibly be someone else? (Indicating scaffolding on top of Army and Navy Club Building.)

A From the place where I am to that distance from the scaffold, that is clear to me, and I could recognize the men.

Q When Captain Nanjo struck Mirivelles with the saber, how did he strike him, or how was the blow struck?

A Mirivelles was kneeling when Captain Nanjo hacked him with the saber.

Q When you returned that afternoon to the scene of the killing, how close was the body of Mirivelles to that of Dizon?

A The distance between the two victims was about both arms extended length.

Q You said you saw the wounds of Dizon, is that correct?

A I saw the wounds when I and Natividad Dizon returned to that place.

Q Did you see wounds on the body of Mirivelles?

A I was not able to see.

Q Did you see any blood on the body of Mirivelles at that time?

A I saw blood.

Q In what position was the body of Mirivelles when you saw it?

A He was lying on his side.

Q With his face toward you or away from you?

A His face was close to the ground.

Q Was his back toward you or away from you?

A You mean when we returned to that place?

Q Yes.

A I could see every part of his body because we went around them.

Q You say you could see no wounds, is that correct?

A I said that, because his wounds were hidden by his dress so I could not tell exactly where the wounds were.

Q Had he been wounded in the neck, would it have been possible for you to see that?

A I cannot tell now, because right away after I saw the body of Dizon I turned my face to be on the lookout.

Q You said you saw the body of Mirivelles from all sides, did you not?

A I could not see the whole body of Mirivelles, who was then having his clothes on.

Q If Mirivelles had had a wound on his neck, could you have seen it?

A I cannot say, because I turned my face immediately outward for a lookout.

Q If you turned your face immediately outward, how did you know that the wounds on Mirivelles' body was covered by his clothing?

A I knew that he had wounds because blood was coming from his body.

BY MAJOR FRITZ:

Q After you witnessed the hacking of your two companions, how long did you remain in your hiding place?

A When I saw them hacked we were still in our hiding place looking towards them.

Q After you saw that how long did you remain in the spot where you were hiding?

A After my two companions were hacked, the Japanese left and after the Japanese left we also left our hiding place.

Q Did all the Japanese disappear from view before you left?

A Yes.

BY COLONEL MacKINTOSH:

Q In the afternoon of the 4th of April, 1945, when you and Natividad Dizon returned to the place where your friends had been killed, did you bury the bodies?

A Yes.

Q Who dug the holes?

A I.

Q Who carried the bodies to the hole?

A I, myself.

Q Who put the bodies in the hole?

A I, myself.

Q At the time you put the bodies in the holes, did you see any wounds on the body of Mirivelles?

A I was not able to see, because I was in a hurry, being afraid that we might be caught again by the Japanese.

COLONEL STICKNEY: Nothing further from the Commission. Does the defense have some questions?

MR. SCHAUER: There is a question I would like to ask this witness. Can the members of the Commission see the gentleman working at the top of the scaffold on the Army-Navy Club building?

COLONEL STICKNEY: I don't believe we want to be questioned.

MR. SCHAUER: I would like them to view this. I am going to ask the witness a question with reference to the scaffolding over there.

RECROSS EXAMINATION

BY MR. SCHAUER:

Q Do you see that man working at the top of the scaffold over there (indicating the top of the Army-Navy building)?

A Yes.

Q Is he a Japanese?

MR. AITKEN: I call attention for the purposes of the record that there is a quantity of smoke passing between the party.

MR. SCHAUER: We will wait until the smoke passes.

MR. WARD: For the purposes of the record, the smoke is behind the scaffolding too.

MR. AITKEN: I beg your pardon.

MR. WARD: It is.

MR. AITKEN: I beg your pardon.

A I cannot tell whether that man is a Japanese or a Filipino, because a Japanese and a Filipino are about the same appearance.

BY MR. WARD:

Q Can you tell what type of implement, if any, he has in his hand?

A It seems to me he is having in his hand a wood.

Q Could it by any chance be a hammer?

A I could see him it seems to me having in his hand a piece of wood.

Q Could it be a hammer?

A I could see him tying the piece of wood to the other wood in the upright position.

Q Is it not a fact that most Japanese look very similar -- look alike?

A Yes.

Q Do they look alike to you?

A (Referring to Interpreter Belaong) Your appearance and the appearance of Captain Nanjo has a similarity.

MR. WARD: For the purposes of the record, I would like it to be shown that the interpreter is a Filipino, is he not?

INTERPRETER BELAONG: Yes; he means a Filipino has a similarity in appearance with Captain Nanjo.

MR. AITKEN: May we have the record show also the complexion is very much the same.

MR. WARD: Put in the record anything you want.

Q You stated you saw Captain Nanjo many times before February 18, 1945, is that correct?

A Yes.

Q You saw him at Boroboro garrison, is that right?

A Yes.

Q Can you remember about the first time you saw him at the Boroboro garrison?

A I could not tell the date when first I saw him, but I could only remember that that was the date when he gave me a civilian pass.

Q Do you remember if that was after January 1, 1945?

A Before January I already saw him.

Q Could it be as early as October 1944?

A I saw him long ago.

Q Could it be as early as October 1944?

A I cannot tell now whether it was in 1944 or 1945.

Q Could it possibly have been as early as August 1944?

A I saw him so many times when I saw him again.

Q Did you know Bartolome Teriano?

A Yes.

Q Do you know when he was taken by the Japanese?

A I do not know when he was taken by the Japanese.

Q Did you know Faustino Alindog?

MR. AITKEN: Just a moment. I object to that as immaterial.

MR. WARD: This is for purposes of refreshing the witness' recollection as to point of time. He states he saw Captain Nanjo many times. The Specifications cover quite a period of time and I imagine the easiest way for one to recall and remember correct dates would be as to the death of a friend.

COLONEL STICKNEY: Is it important that we know the date the first time he saw Captain Nanjo?

MR. WARD: Well, this man has been delivering goods evidently to the Japanese, for which he required a pass.

MR. AITKEN: This man was not delivering goods.

MR. WARD: He got a pass for the purpose of doing that.

COLONEL STICKNEY: Who said that?

MR. WARD: He said he required a pass to get into the Boroboro garrison.

MR. AITKEN: That does not mean he was delivering

goods. I think that suggestion of counsel should be expunged from the record. He is not testifying in this case.

COLONEL STICKNEY: I think both sides have got to be careful about their testimony and their statements. I believe you made a misstatement there.

MR. WARD: If I have, I will certainly withdraw it and I will ask another question.

COLONEL STICKNEY: You are mistaken about that?

MR. WARD: I thought this defendant said he had gone many times -- in previous testimony when testifying as to the fourth count, I believe he stated at that time he had taken goods to the Boroboro garrison. That is why he knew the defendant. If I am mistaken in that testimony, I have not read the transcript, I will certainly withdraw it.

COLONEL STICKNEY: I think you had better read it and even then be careful what you put in the record. You yourself have been criticizing the other side.

MR. WARD: You are perfectly correct.

COLONEL STICKNEY: The objection of the prosecutor is sustained. The Commission will adjourn and will reconvene at 0830, on the 17th of October.

(The Commission adjourned at 1500 hours to reconvene at 0830 hours, 17 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME X

PAGES 592 - 669, INCL.

MANILA, P.I.

DATE: 17 October 1946

COPY NO: 1

CERTIFICATION

**THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by**

**Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;**

**Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;**

**Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and**

**Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,**

**in the trial of the case of the United States of America
against Masao NANJO.**

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
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Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P.I.
17 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

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LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 17 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the defense counsel Ward, the defendant and his personal interpreter, the official interpreters, and reporter, are present in court. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Belaong so reminded the witness.)

GIL TANIQUE

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

MR. AITKEN: Gil Tanique, I believe, was under cross-examination at the end of the last session.

RECROSS-EXAMINATION (Continued)

BY MR. WARD:

Q You state that you buried both Dizon and Mirivelles, is that correct?

A Yes.

MR. AITKEN: As a matter of information, I may be wrong in this, but I thought the defense closed its cross-examination.

COLONEL STICKNEY: I think following the examination by the Commission, the defense was once more asking questions, is that correct?

MR. WARD: I think so. Was there an answer to my question?

INTERPRETER BELAONG: The answer is, "Yes."

Q Did you see any visible wound near the head and neck of Mirivelles?

A I said yesterday that I had not seen exactly his wounds, but I saw blood from his body.

Q You testified that you saw Captain Nanjo hack at the body and head of Mirivelles. Could you see the results of that blow on the body of Mirivelles?

MR. AITKEN: I am objecting to this now, because it is a repetition. He was taken over all of that yesterday

afternoon, at least he was taken over all of it by the members of the Commission at length, and this is mere repetition again. I don't think counsel for the defense has the right.

COLONEL STICKNEY: Any reply from the defense?

MR. WARD: I believe it was brought out partially, but I don't believe it was brought out that way. This happens to be my last question on that subject.

COLONEL STICKNEY: I am quite in agreement with the remarks of the prosecution. There was a long cross-examination, after which the defense was through. Then there were some questions by the members of the Commission, after which we permitted the defense to come back, but there should be very little more ordinarily at this time.

MR. WARD: I believe in the transcript the defense on cross-examination never covered the type of wounds. It was brought out only by the Commission.

COLONEL STICKNEY: You may proceed.

MR. WARD: That was my last question in that respect. What was the answer?

A I said that I saw Captain Nanjo when he delivered a blow on Mirivelles, but I was not able to note on which part of the body he was hit. When I buried his body I was not able to note exactly where the wounds were, only I was able to observe blood coming from his body.

Q Yesterday you stated you knew Captain Nanjo as you had seen him many times, is that correct?

A Yes.

Q You stated that you received a pass from Captain Nanjo to enter the garrison at Boroboro, is that right?

A I was not given that pass for going into the garrison in Boroboro, but that pass was issued to me so that I could show it to the other Japanese and that no harm would befall upon me because I was a civilian.

Q When did you receive that pass?

MR. AITKEN: I am going to object to this line of questioning now. I would like the record first to show that Defense Counsel Schauer has come into the Court.

Defense Counsel Schauer spent practically all yesterday afternoon in complete cross-examination of this witness and I don't think it is fair either to the witness or to the prosecution, nor is it regular procedure in any court to allow counsel to relay questions of cross-examination of witnesses. The ordinary procedure is to have one counsel finish the job and not turn a witness over to another to be re-cross-examined over the same ground, and this is what is happening now.

MR. WARD: I beg to differ with counsel. I don't know what he has been doing over in that chair but I have been cross-examining this witness except for one exception when Mr. Schauer asked the witness only one question and that question was, "Could you tell whether a man on the scaffolding," as pointed out by the witness, "was either a Filipino or a Japanese?" That was the only question asked by Mr. Schauer, the rest were asked by myself.

MR. AITKEN: I will stand corrected then, I was mistaken. I thought Mr. Schauer had been asking the questions. Then, my objection is all the stronger as he is just repeating himself after having closed the examination.

MR. WARD: I believe the testimony last night, which I was gathering in my mind at the moment, showed that counsel had disagreed with one of my statements as to what period of time the witness had first seen Captain Nanjo which, of course, is a very relevant question as relating to his identifying the defendant. And the closing arguments on both sides were related to that question, as to whether my short review of what I believe to be his testimony was to be a fact. If the Commission will remember, and this is a continuation, not a repetition of those questions.

COLONEL STICKNEY: Again, I am in sympathy with the prosecution that the defense seems to be dragging out its case with this particular witness. They asked all the questions they wished to ask. It is believed that they have no right to ask further questions. However, in view of the fact that the members of the Commission have asked questions which bring up possibly new points, it is permissible for a few more questions to be asked by either side, the prosecution or the defense. But, it is not believed that we should drag on too far on the third day with this witness and the particular objection to answering this question is not sustained. However, it is desirable that we get to the point and pass the point and get on with another witness.

MR. WARD: Will you repeat the question, please?

(The reporter read last question asked.)

A I cannot remember the day and the month.

Q What month did you receive the pass?

A I cannot remember what month it was.

Q What year did you receive the pass?

A Before 1945.

Q What part of the year, the first, the middle, or the last?

A I cannot remember.

Q Did you talk to an investigator in Negros Island as to these facts before being brought to Manila?

COLONEL STICKNEY: I would like to ask if the present question is something that was brought up by new material which came out while the Commission was asking questions. You have closed your case with this witness.

MR. WARD: No, with the exception of the fact, if you will remember, this is a new count. This count has been amended several times. We have received communications from Negros and if you will note I had just received a letter just prior to my re-examination yesterday, from Mr. Curry, and this, we have every reason to believe, that this witness is telling a terrific string of falsehoods.

COLONEL STICKNEY: I am not interested in what you have reason to believe.

MR. WARD: Well, that is the reason for my questioning, sir.

COLONEL STICKNEY: As I understand it now you are prolonging your investigation along with your original statement that your case was ready for trial with the exception of any material that might come in from the investigator?

MR. WARD: Correct.

COLONEL STICKNEY: And that is the reason for your prolonging the examination of this witness?

MR. WARD: I can show the Commission the letter, if you wish. I would like to read it into the record too, if you will allow me to. In fact, I will be glad to read it into the record.

COLONEL STICKNEY: You may proceed.

MR. WARD: Will you please read my last question?

(Last question read by reporter.)

A We were only taken from our place by Captain Gestoso.

Q When was that?

A On the 7th day of September, 1945.

Q Had you ever seen an investigator before that time?

A No, he was the only one who went to our place.

Q Did you say the 7th of September, 1945, is that correct?

A That was the time when Captain Gestoso took us from Negros to come here to Manila.

Q Did you go back to --- was that one month ago or was that a year and a month ago?

A From the 7th of September up to now we are still here.

Q Did you see an investigator prior to seeing Captain Gestoso some time in 1945?

A No.

Q Did you ever sign a piece of paper given you telling the story you are now relating in court?

A Yes.

Q When did you sign that piece of paper?

A On April 4. I would like to remark, Captain Gestoso took us from Negros in 1946.

COLONEL STICKNEY: Will the reporter read the answer, please?

(Last answer read by reporter.)

MR. WARD: Will you repeat my question, please?

(Question read by reporter.)

A On April 4, 1945, I signed that paper.

Q Are you sure of that date?

A I am sure.

Q You signed that paper on the same day you escaped from the Japanese and that Mirivelles and Dizon were killed, is that correct?

A What I signed was about the happenings on April 4, 1945, but the paper which I really signed was signed by me after that date.

Q How long after that date?

A I cannot remember but the Japanese at that time had already **surrendered** to the Americans.

Q Were you shown a group of pictures of any Japanese at that time?

A No.

Q Were you shown any pictures of Japanese at that time?

A No.

Q Had you ever seen Captain Takahashi?

A I do not know him.

Q Was Tiburcio Jonota with you when you spoke to the investigator that took down your story on a piece of paper?

A Yes.

Q Who else was there at that time?

A Natividad Dizon.

Q Anyone else?

A Those who appeared on that paper were our companions.

MR. AITKEN: Were, what was that?

INTERPRETER BELAONG: "Were our companions."

Q Were any pictures of Japanese shown Jonota or Natividad Dizon?

A I do not know.

Q Did the person who had you sign that piece of paper ask you what happened on April 4, 1945?

A Yes.

Q Did he ask you to describe Captain Nanjo?

A Yes.

Q Did you describe him?

A Yes.

Q What did you say he looked like?

A I told the investigator that Captain Nanjo before was wearing eyeglasses and that he had gold teeth and also that he was wearing a saber and revolver.

Q Was that all of your description?

A Yes.

Q He never showed you a photograph of Captain Nanjo?

MR. AITKEN: Objected to. It has been asked and answered several times now.

MR. WARD: I asked him if he had seen pictures of other Japanese and he said, "No."

COLONEL STICKNEY: Objection sustained.

Q Did he take you to see Captain Nanjo at that time?

A I have not seen the picture of Captain Nanjo.

Q Did you see Captain Nanjo after you spoke to the investigator?

A No.

Q Had you seen Captain Nanjo any time from the period of April 4 until you came to Manila and saw him over by the High Commissioner's Residence in this area?

A That was the only time I next saw him, when I got down from the truck in this compound and also here in this courtroom.

Q And that was when you pointed Nanjo out to the other witnesses, is that correct?

MR. AITKEN: That is objected to.

COLONEL STICKNEY: Objection sustained.

Q Other than Jonota, have you ever spoken to the other witnesses about Captain Nanjo?

MR. AITKEN: I object to that also, as immaterial, because it makes no difference whether he spoke to other witnesses or not.

MR. WARD: It is very material. He has never been asked this question; therefore, it is not repetitious. Secondly, it would certainly show bias and prejudice on the part of this witness, as well as on the parts of others. At this time, of course, we are mainly interested in this witness; therefore, the relevancy would be directly as to his testimony.

COLONEL STICKNEY: Objection sustained.

Q When you came up from Negros Island on September 7, you came with the other witnesses in the case against Lieutenant Nanjo, did you not?

A Yes.

Q And you have been housed with them ever since, is that not correct?

A Yes.

MR. WARD: Defense has finished cross-examining.

COLONEL STICKNEY: Anything further from the prosecutor?

MR. AITKEN: No further direct.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I want to ask, on the 4th of April 1945, among the one hundred more or less men on the expedition towards Magbuyo, how many of those one hundred more or less did you see carrying pistols and sabers?

A I said yesterday that I could not tell how many of them.

Q Did you see anybody with a pistol and saber among that one hundred men?

A Yes.

Q Who did you see with a pistol and saber?

A The one I saw was Captain Nanjo.

Q Did you see anyone else there with a pistol and saber?

A Yes.

Q Who else did you see with a pistol and saber?

A I do not know those soldiers.

Q How many others did you see with pistols and sabers besides Captain Nanjo in that party?

A Many of them.

Q About how many?

A Because of the number of soldiers in that expedition, I could not tell how many of them were officers.

Q How many did you see wearing pistols and sabers?

A I estimate that it was more than one.

Q Can you give a nearer estimation than that? That could be two or could be ten.

A I cannot calculate more or less how many of them, because at that time I was engrossed in the thought of escaping.

Q Did you hear the soldiers call Captain Nanjo, "Captain"?

A Yes.

Q Did you hear them call anyone else, "Captain"?

A At that time when he addressed, "Captain," it was Captain Nanjo to whom he was addressing, and at that time Captain Nanjo was in front of us.

Q Did you hear the soldiers call anyone else, "Captain" besides Captain Nanjo?

A I cannot remember.

Q Do you know whether non-commissioned officers in the Japanese Army carry pistols or sabers, or both?

A I do not know, but all that I saw at that time was Captain Nanjo who was carrying his saber and pistol.

Q Did Captain Nanjo appear to you to be the leader of this one-hundred-men patrol?

A I think Captain Nanjo was the leader of that expedition, because he was the one who was able to know the way.

Q Why was he the one who was able to know the way?

A Because he was used in that place during his patrol expeditions.

Q Did you see anyone in the group that you could recognize as a First Lieutenant and a Captain or higher ranking officer?

A As I understand, the Japanese officers were called by their soldiers, all of them, as "Captain."

Q At the time of your arrest, who appeared to be making your arrest -- in charge?

A You mean at the time when we were arrested?

Q That is right.

A Captain Nanjo.

Q Did anyone else, to your knowledge, give orders or do any acts connected with your arrest and marching away?

A I do not know of anyone else.

COLONEL STICKNEY: Nothing further from the Commission. Do you have any questions?

MR. WARD: Now, unfortunately, I have.

FURTHER RECROSS-EXAMINATION

BY MR. WARD:

Q You stated Captain Nanjo was the leader of the group because he knew the way, is that right?

A I was not very sure, but only I think that he was the leader, for he was the only one who knew better the way in those places.

Q You stated that you had been to Magbuyo Mountain only once before, is that correct?

A Yes, only at the time when we went to locate the dead.

Q Had you seen Captain Nanjo on a patrol of that area before April 4, 1945?

A Yes.

Q When?

A On the 18th of February 1945.

Q On the 18th of February 1945, you saw Captain Nanjo on Magbuyo Mountain, is that correct?

A No, but I saw him near Granada.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Belaong so reminded the witness.)

Q Had you ever seen Captain Nanjo near Mt. Magbuyo?

A Yes, on the day when Benito Mirivelles and Roman Dizon were killed.

Q On any day before that time?

A No.

Q Why did you just testify that Captain Nanjo knew the way because he had patrolled that area?

A I only knew from the information given me by other civilians that when he ever passed that place for patrol he was passing that way and presumed that he knew the way.

Q You state the soldiers called him Captain Nanjo "Capitan", is that right?

A Captain.

Q Captain? Are you sure they used that word, are you positive?

A Yes.

Q Do you know what tail means?

A No.

Q You say Captain Nanjo was between you and Mirivelles and Dizon, is that right, on your trip to Magbuyo Mountain?

A Yes.

Q Could you see him walking?

A At times when we could look towards the direction we could see him, but most of the time because of our thought to escape, we did not know.

Q During the time you saw him walking on this trip to Magbujo Mountain, did you notice whether or not Captain Nanjo was limping?

MR. AITKEN: Objected to as having been asked and answered yesterday.

MR. WARD: I don't believe I ever asked this witness that question. We asked Jonota. We have not asked Gil Tanique.

COLONEL STICKNEY: It sounds very familiar.

MR. WARD: Yes, we asked Jonota.

COLONEL STICKNEY: But Jonota has not been on the stand for several days.

MR. WARD: Well that is the same question and I don't believe this witness has answered it.

COLONEL STICKNEY: Very well, we will hear the answer again.

A I was not able to observe.

MR. WARD: I re-correct my last statement. We asked Gil Tanique as to February 18th whether Captain Nanjo was limping at the time, not April 4.

Q Prior to April 4, 1945, how many companies or groups of soldiers did you see heading for the mountains from the direction of Bacolod City?

A I could not count.

Q You saw many groups heading for the mountains from the direction of Bacolod, is that correct?

A Yes.

Q Very many?

A Also many.

Q Can you tell the rank of a soldier by the insignia on his uniform?

A I cannot tell.

Q The only way you can tell he is an officer is by his gun and sword, is that correct?

A Yes.

MR. AITKEN: Just a moment, I would like the record to show that while counsel used the word "gun" the translation used the word revolver. It might make a difference.

COLONEL STICKNEY: I don't think we are interested in that. We are getting translations through our regular translators and I think we have to depend on them.

MR. AITKEN: The point I am making is that a "gun" might be a rifle.

MR. WARD: Well, if that is it I will withdraw my question.

MR. AITKEN: If it means rifle and sword, then I would object to it. I take it that counsel meant revolver and the interpreter took it the same way, and I don't think it will show in English.

COLONEL STICKNEY: I don't think it needs to show in the English of the record. The translators from time to time have their troubles, but they are doing their best and if you are perfectly satisfied with everything, I see no reason for the remark.

MR. AITKEN: I am perfectly satisfied, I will withdraw the objection.

COLONEL STICKNEY: Unless there is a criticism, I think we should not interrupt.

MR. AITKEN: Well, I would like the record straight though in English.

MR. WARD: I would like to ask the interpreter a question. At that time, did you use the word "revolver" or "gun"?

INTERPRETER BELONG: I did use "revolver".

Q You cannot tell the various ranks of officers, is that correct?

A No.

Q Did you see any more groups of soldiers going towards the mountains, from Bacolod City after the one on April 4 where you were captured?

A I have not seen any more.

Q To repeat, to your knowledge, that was the last group of soldiers from Bacolod, is that correct?

A Yes.

Q Was that the last group of soldiers you saw heading in the direction of the mountains from either Granada, Concepcion, Boroboro?

A That was the last I know, because the Americans were coming, and the Japanese soldiers were going into the mountains.

MR. WARD: The defense rests with this witness.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: I have just one. It is not regarding redirect examination, but I would like the record to show that yesterday afternoon when the witness was given

his eye test that the state of the atmosphere was cloudy and that it had just been raining.

MR. WARD: Well, if counsel wishes to put that in the record.

MR. AITKEN: I would like it.

MR. WARD: It is the defense counsel's opinion that the weather was reasonably clear. He had no trouble seeing the scaffolding, the man on the scaffolding, and the fact he was waving something in the air that looked like a hammer or piece of wood. Also, that he could see the face but not distinguish the characteristics of the person on the scaffolding.

MR. AITKEN: Now, I am going to ask that the remarks of counsel be stricken because he is testifying to what he could see. I merely want the condition of the atmosphere in the record, so that it can be taken notice of.

COLONEL STICKNEY: We have in the record the opinion of both prosecution and defense as to the weather yesterday. And, of course, it would have been better if it had been in yesterday's record instead of today's. It is only for the benefit of the reviewing authority. The members of the Commission have their own opinion as to the condition. They may not all have the same opinion. The chances are it is somewhere between the two extremes that have been given by the prosecution and by the defense. However, it may be that one or more believe that prosecution has understated, or perhaps that the defense has understated the condition. Unless there can be a

stipulation agreed upon by both parties, it is not of much benefit to the reviewing authority.

MR. WARD: I am fairly certain that counsel will not agree to anything further than he has stated, for the simple reason he must protect his witness. Therefore, no stipulation is possible.

COLONEL STICKNEY: I believe the record has in it this point.

MR. WARD: I am merely stating it again.

COLONEL STICKNEY: I believe we have sufficient in the record now at this point.

MR. SCHAUER: I believe for purposes of clarification, when I asked the witness yesterday with reference to the man on the scaffolding, I believe I failed to state for purposes of the record, that this is the same scaffolding the witness had used previously in pointing out the distance between himself and that scaffolding as representing the distance between the hiding place and the other soldiers on the trail. And the record may be somewhat ambiguous yesterday as to that same scaffolding, and that is the reason I make this statement now.

COLONEL STICKNEY: Is there anything further from this witness?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: The witness is excused.

MR. WARD: One more thing before the witness is excused. Counsel is trying to throw some shadow on

the record. Today is a very clear day. I believe that will be stipulated by counsel.

COLONEL STICKNEY: Before you go any further, if you think there is a chance of stipulation find out.

MR. WARD: So he would be --

COLONEL STICKNEY: Now, wait a minute. You can find that out in closed session if there is to be such.

MR. WARD: This is no stipulation.

COLONEL STICKNEY: Let's not have any comment on whether you believe there is a stipulation or not. If you believe it is one, get it and put it in. We are having too much on the record on this point now.

MR. WARD: Today is a very clear day. There are also men on the scaffolding at this time. To clarify the record I would like the witness asked the same question he was asked yesterday. I do not believe it will take much time. It will clarify the record and perhaps for some members of the court, as to whether he can distinguish whether the men on the scaffolding today are Filipinos or Japanese.

COLONEL STICKNEY: Does the prosecution agree with the stipulation?

MR. AITKEN: No, I am not making any stipulation. I will say it is a very nice clear day now, if that is desired in the record. Further than that, I am not making any stipulation.

COLONEL STICKNEY: Do you wish once more to examine this witness?

MR. WARD: As to that one point.

COLONEL STICKNEY: Very well, we will give you

another chance to examine this witness. You have had many chances previously.

Q Calling your attention to the scaffolding on top of the Army and Navy Club, as you did yesterday, can you distinguish if the workman on that scaffolding today is a Japanese, Filipino, or an American? Take lots of time and give us your answer.

A At this time, I cannot see very well because my forehead is aching and my eyes are not clear enough to see.

MR. WARD: That is sufficient.

COLONEL STICKNEY: Is there anything further from the prosecution?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: Anything further from any members of the Commission.

The witness is excused.

(Witness excused)

MR. AITKEN: May this witness be permanently excused?

MR. WARD: As far as the defense.

MR. AITKEN: As far as the Commission is concerned? We are anxious about these witnesses. We are trying to get them back as fast as we can and some of them missed the opportunity yesterday. I understand that the defense is desirous of asking some questions of Elena Beter and Primitiva Casabuena, and while it is a little out of order, we are anxious to get them back, and they were all disappointed in not getting away yesterday. If it is agreeable to the Commission, we

will put those two on the stand and finish with them for good and all.

COLONEL STICKNEY: Agreeable to the defense?

MR. WARD: We have agreed.

COLONEL STICKNEY: Very well.

MR. AITKEN: Which one do you want first?

You are calling them for cross-examination.

MR. WARD: Primitiva Casabuena, I think. I have only one question to ask of her.

MR. AITKEN: The record will show that these witnesses are called for further cross-examination.

MR. WARD: All right, either capacity is satisfactory with the defense.

COLONEL STICKNEY: This is as a result of your investigators being in the field having brought you additional information, is that correct?

MR. WARD: That is the result of both, investigators in the field and the fact I talked to Primitiva Casabuena yesterday before releasing her to go back to Negros.

COLONEL STICKNEY: Which happened as a result of information from the field?

MR. WARD: Both. We have an investigator down there from whom I received a letter, and from talking to Primitiva Casabuena yesterday.

PRIMITIVA CASABUENA

a witness for the prosecution, having previously been duly sworn, was further examined and testified as follows through Interpreters Genoves and Belaong:

MR. AITKEN: Will you remind this witness that she has already been sworn and is still under oath?

(The witness was reminded that she was under oath.)

MR. AITKEN: The witness, Primitiva Casabuena, is recalled for some further cross-examination by the defense.

CROSS-EXAMINATION

BY MR. WARD:

Q Calling your attention to yesterday, about 12 o'clock noon, you had a conversation with me, did you not?

A Yes.

Q And at that time you stated that your son was killed in 1944 instead of 1945, is that not correct?

A I was trying, as I know that my son was killed in 1945, but you were trying to induce me to say it was 1944.

Q Is it not a fact that before I spoke to you your first statement to the interpreter upon coming into the room was that you wished to correct the affidavit that you had previously made?

A Maybe you got the wrong impression. What I said is that whatever I have read and signed in an affidavit I will stand for it that all of those facts I have stated and signed are true, to the best of my knowledge.

Q And that your son was killed February 18, 1945, and not in 1944, is that correct?

A Yes, in 1945.

MR. WARD: The defense rests with this witness.

COLONEL STICKNEY: That is all for this witness?
Anything further from the prosecution?

MR. AITKEN: Nothing further.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q About when did you sign the statement that has been referred to?

A I cannot remember what day or what month I signed that affidavit.

Q Yes, but was it a month ago, or a year ago, or how long?

A Before I was taken here, sir.

Q Can you give me an approximate number of months ago that you signed that statement?

A It seems to me it was around the month of April -- I am not too sure of that month.

Q You think it was about April, 1946, is that right?

A I think around that year, 1946. Just a little after the beginning of 1946.

COLONEL STICKNEY: Nothing further from the Commission. Do you have something?

MR. WARD: Yes.

FURTHER CROSS-EXAMINATION

BY MR. WARD:

Q Last night did you have occasion to see Mr. Aitken, the prosecuting attorney?

COLONEL STICKNEY: You are now asking something that was brought out by the questions from the Commission?

MR. WARD: It is on the same grounds. You were asking when she signed her affidavit. The witness is still under cross-examination, so Mr. Aitken states. I believe there is nothing in SCAP rules that says at this time I can't either bring up relevant material or completely new material.

COLONEL STICKNEY: I will call your attention to the fact that you said you had nothing further.

MR. WARD: That is right. When the Commission was talking about signing the affidavit it occurred to me that for some reason she is changing her testimony at this time, which is a relevant thing. She has changed it once from the affidavit she signed to something else. That is the reason for my question.

MR. AITKEN: The prosecution would like to make a statement at this time.

COLONEL STICKNEY: You go ahead with your question.

MR. WARD: Will you repeat the question, please?

(Reporter read the question.)

A No.

Q Did you see any of the prosecution staff last night after you had seen me?

A No.

Q Did you see Mr. Aitken this morning before you came to court?

A No, I have not gone out from that room there.

Q Have you seen Mr. Aitken since you have seen me yesterday?

COLONEL STICKNEY: It strikes me that has been

covered. We have covered yesterday and today -- there are no other days.

MR. WARD: She stated in her answer to the last question, which was not responsive, that she has not been out of that room. She did not say she had not seen Mr. Aitken. The answer was evasive.

A No, neither did I go out from our camp.

Q Did anybody ask you what questions I had asked you yesterday noon, and the answers that you responded?

A Nobody.

MR. WARD: I believe that is satisfactory.

COLONEL STICKNEY: Anything further, Mr. Aitken?

MR. AITKEN: Counsel for the prosecution wants to make this statement: -- since this witness was on the stand the first time, I doubt if I have seen her even at a distance, and I have never spoken a word to her either directly or indirectly at any time since that day, and particularly yesterday. And I am satisfied that no member connected with the prosecution has either.

COLONEL STICKNEY: If everyone is through with the witness, the witness is excused.

MR. AITKEN: May I announce that she is permanently excused, so that she can go back.

MR. WARD: She is not permanently excused. We are still going to use this witness, I believe, for further cross-examination, upon further investigation.

(Witness excused)

MR. AITKEN: Call Elena S. Beter.

COLONEL STICKNEY: This next witness is coming with the idea that a few questions may allow her to proceed home, is that correct?

MR. AITKEN: That is correct. That was the understanding on which I put the last witness on this morning.

MR. WARD: It was also the understanding that the last witness would testify what she told me yesterday.

ELENA S. BETER

a witness for the prosecution, having previously been duly sworn, was examined and testified as follows:

MR. AITKEN: Will you remind the witness that she is proceeding under oath?

COLONEL STICKNEY: She speaks English, I believe?

MR. AITKEN: That is right. Please remember you have been sworn, and are declaring under oath. Elena S. Beter is recalled for further cross-examination by the defense.

CROSS-EXAMINATION

BY MR. WARD:

Q You stated you were captured by the Japanese, particularly the Jempei Tai, in January 1945, did you not?

A Yes.

Q After either escaping or being released by the Japanese, did you have occasion to go to the hospital at Bacolod during the months of January, February or March 1945?

A Can you give me the privilege to explain the matter before I answer directly?

Q I think you can answer the question, and then explain.

A All right. After my release from the Jempei Tai I was called by --

MR. WARD: Just a moment. The question asked for a yes or no answer, and then after you answer yes or no you can explain. The question was, "After you were released by the Japanese or escaped during the months of January, February or March, did you have occasion to go to the Bacolod hospital?"

A Yes. Can I explain now?

Q Yes, please explain.

A After I was released on January 23, 1945, Captain Itchenoche --

Q Does your explanation have anything to do with your going to the hospital?

A Yes. I have to explain it, because I answered yes. After I was released in the month of January 23, 1945, Captain Itchenoche, without telling me where to go, he brought me directly to the hospital, without knowing who was there in the hospital. And then I asked before entering the hospital this question, "Itchenoche, what is the purpose of bringing me down here?" And he answered that, "Captain Nanjo wanted to see you, because Captain Nanjo claims he helped your release, while you were in the Kempei Tai hands." Furthermore, I would like to explain, and then I continued on my arguing with Captain Itchenoche: "I didn't know that Captain Nanjo helped my release, because you didn't tell me so while I was suffering at your hands. I have to suffer the third degree wherein I have to swim in the deep water -- "

COLONEL STICKNEY: I don't believe the particular purpose of bringing you here now is to hear about this. I don't know what they are after, but they are only after a question of whether or not you did go to the hospital and they have the answer. I believe we want to proceed to other questions. I don't think what you are about to say will help in any way.

MR. WARD: That is as far as I wish to go.

COLONEL STICKNEY: Very well, let us get to the next question.

Q When you were at the hospital in Bacolod, it was approximately January 20, or shortly thereafter, do you remember?

A That was January 23, 1945, after I was released. Captain Itchenoche was the one who brought me to where Captain Nanjo was sick in the hospital.

Q Was he sick in bed?

A Yes.

Q Do you know, by any chance, what injury Captain Nanjo was suffering?

A He was suffering with his legs. I saw his legs were full of bandage. That was the time when I go there.

Q Did you or your friends again see Captain Nanjo in the hospital?

A Yes.

Q When did you see him again?

A Only my friends. I didn't go any more.

Q When did your friends go there?

A I don't know exactly the date.

Q Was it after January 23d?

A I don't know, but while I was there at the barrio those friends who knew Captain Nanjo told me that they came to see Captain Nanjo.

Q Did your friends tell you that while you were in the hands of the Kempei Tai they had gone to see Captain Nanjo?

A They did not tell me.

MR. WARD: I believe that is all.

COLONEL STICKNEY: I have some questions.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Do you know how long Captain Nanjo was in the hospital at that time?

A I do not know.

Q Did he have a broken leg?

A I did not examine it, except that I saw bandage wrapped on his leg. I am not very sure whether it was on the right or left leg. I did not examine him, I just stood by the bed.

Q Was it on the upper or lower leg?

A (Indicating) Here at the middle of the leg. The bandage until here and here. (Indicating)

MR. WARD: Indicating the calf of the right leg.

COLONEL STICKNEY: She happened to indicate the right leg, but she said she didn't know whether it was the left or right leg.

A (Cont'd) I don't know, because I just stood there and didn't examine it.

Q Do you know whether he had a sprain or a break or a bruise, or a saber wound, or what it was?

A I don't know anything about it.

COLONEL STICKNEY: Any other questions? Nothing further from the Commission.

MR. WARD: Nothing further from the defense.

MR. AITKEN: Nothing from the prosecution.

MR. WARD: At this time we are willing to release her permanently.

(Witness excused)

MR. AITKEN: Natividad Dizon.

MR. WARD: At this time we are willing to release her permanently.

(Witness excused)

MR. AITKEN: Natividad Dizon.

NATIVIDAD DIZON

a witness for the prosecution, being first duly sworn, was examined and testified as follows through Interpreters Genoves and Belaong:

COLONEL STICKNEY: Is this witness able to speak in English?

MR. AITKEN: As far as I know, she cannot. I have never spoken to her except through an interpreter. We will ask her.

DIRECT EXAMINATION

BY MR. AITKEN:

Q Can you talk English?

A (The witness shakes her head.)

Q Do you understand English?

A I cannot understand, nor speak English.

Q Will you state your name?

A Natividad Dizon.

Q Your age?

A Thirty-two.

Q Your Negros residence?

A Bacolod-Murcia Milling Company.

Q Was Roman Dizon your father?

A Yes.

Q Did you know Benito Mirivelles?

A Yes.

Q Did you participate in the burial of your father and Mirivelles?

A Yes.

Q Do you remember when it was?

A Yes.

Q What date?

A April 4, 1945.

Q Now, will you relate the circumstances connected with the burial of your father and Mirivelles? Just state how you found out they were dead and what you did.

A On that day I was informed by Gil Tanique.

Q Where were you at that time?

A I was at our evacuation place.

Q Continue.

A He informed me that my father was killed by the Japanese. Then I went with him to the place where my father was killed and upon arriving there we buried him.

Q Did he tell you who killed your father?

A Yes, he told me that the Japanese killed him.

Q Did he mention any names?

A No. Do you mean the names of the Japanese who killed my father?

Q Yes.

A Yes, he told me.

Q Who did he say?

A He told me it was Captain Nanjo.

Q Where did you find the bodies of your father and Mirivelles?

A In Magbuyo.

Q About what part of the time of the day was this when you went there?

A I could not remember the hour.

Q Well, was it early in the morning or mid-day or late

in the afternoon, or when?

A That was after our noon meal, but I cannot remember what time it was.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind this witness that she is proceeding under the oath just administered?

(Interpreter Genoves so reminded the witness.)

Q I think you were relating about arriving at Magbuyo sometime in the afternoon and finding the bodies of your father, Roman Dizon, and Benito Mirivelles, and burying them. Did you examine the body of your father at the time?

A I was not able to examine the body before we buried it.

Q Did you see any wounds?

A Yes, I saw some.

Q How many and where were they?

A Two.

Q All right. Where were these wounds?

A On my father's body I saw one wound around near the nipple on the right chest, and the other somewhere in the same place.

COLONEL STICKNEY: "Same place"?

INTERPRETER GENOVES: Yes.

Q What was the nature of these wounds you saw, what did they look like?

A They are not quite large. As I understand it is caused by bayoneting.

Q By a bayonet thrust. Did you examine the body of Mirivelles?

A I was not able to examine the body of Mirivelles.

Q How far apart were these bodies lying?

A I was not able to note the distance between them.

Q What did you do there at that time with the bodies?

A We buried the dead bodies.

Q Was Gil Tanique there with you?

A Yes, we were two.

Q Was he the person who led you to the two bodies?

A Yes.

MR. AITKEN: Your witness. Oh, just one further question.

Q Do you know whether your father or Mirivelles were either connected with the guerrillas or the USAFFE?

A No.

Q That is, they were not?

A They were not.

MR. AITKEN: That is all.

CROSS-EXAMINATION

BY MR. SCHAUER:

Q When had you last seen your father, Roman Dizon, on the 4th of April 1945, the last time you saw him alive?

A I was not able to see him that day because they were in the separate evacuation place.

Q Did you see him before he went to the evacuation house?

A No.

Q Do you know what time it was that he went to the evacuation house?

A I was not able to know.

Q Did you see him the day before that, that is the day before the 4th of April 1945?

A No, I only saw him at the time when he was already dead. That was when I was with Gil Tanique.

Q Where was he the last time that you saw him alive?

A The last time I saw him alive was in his evacuation place.

Q On what day was it that you last saw him alive in the evacuation place?

A I cannot recall the day.

Q Was it the day before the 4th of April, when he was killed?

A It was about two days before the time he was killed that I saw him at his evacuation place.

Q And when you saw him at the evacuation place about two days before he was killed, that was the last time you ever saw him alive, is that correct?

A Yes.

Q How far is this evacuation house from the place where you live?

A It is quite far because that place is used for hiding.

Q Can you tell us about how far the evacuation house is from the place where you live?

A I cannot calculate.

Q Near what barrio is the evacuation house?

A The evacuation place is in Sitio To-ong.

Q And at that time, that is April 4, 1945, in what barrio were you living?

A I was living at Sitio Cabatangan.

Q About how far is it from Sitio To-ong to Sitio Cabatangan?

A It is quite far and I cannot give the exact distance.

Q About how long would it take you to walk from Sitio Cabatangan to Sitio To-ong?

A From Sitio Cabatangan to Sitio To-ong, it will take about a half hour.

Q How long would it take you to walk from the place where you live, that is the house in which you live, to the evacuation house?

A I think it is near because it would not take me long from the place where I live to be at the evacuation place at To-ong.

Q Would it take you about a half hour to walk from the place where you live to the evacuation house?

A I think that is quite a length of time it would take me from the place where I live to the evacuation place at To-ong.

MR. SCHAUER: Would the reporter kindly read that answer back to me?

(Answer read by reporter.)

Q You mean it would take you about a half hour to walk that distance, is that correct?

A Yes.

Q When you go from the place where you live to the evacuation house, in which direction do you go? That is, do you go east, or west, or north, or south?

A Coming from the place where I live to the evacuation place, I will be going southward.

Q What was the evacuation house used for?

A That is used for hiding purposes.

Q Wasn't it also used as a meeting place for guerrillas?

A No.

Q Was it used as a meeting place for members of the USAFFE?

A No.

Q How long had that evacuation house been used as a hiding place?

A That has been used as a hiding place from the time the Japanese landed and whenever the Japanese soldiers were on patrol.

Q Do you know about how often your father went to this evacuation house before the 4th of April 1945?

A Whenever there was a Japanese patrol in that vicinity he went there to hide, but after the patrol was gone home we went back to our house.

Q You did not go with your father to the evacuation house on April 4, 1945, did you?

A No.

Q Your father went to the evacuation house many, many times, did he not?

A He only went there at the time that there was a Japanese patrol in that vicinity.

Q Was that many times?

A Not very often.

Q Most of the times, that he went to this evacuation house, he went alone, did he not?

A Usually he was alone, but that time of the incident they were four.

Q You only know they were four, because someone told you that, isn't that correct?

A Yes.

Q On the 4th of April, 1945, did you have any brothers or sisters living with you?

A Yes.

Q How many?

A Two.

Q Brothers or sisters?

A Brothers.

Q What were the ages of your two brothers at that time?

A I was not able to take record of their ages.

Q You say you are thirty-two years old, is that right?

A Yes.

Q Were these brothers older or younger?

A Those two were the youngest.

Q Were they younger than you?

A Yes.

Q About how many years younger than you?

A I am not able to know their ages, but what I know is that these two brothers of mine were the last.

Q Did they live with you at your house in Cabatangan?

A Yes. Do you mean my brothers?

Q Yes.

A Yes.

Q Most of the times, that he went to this evacuation house, he went alone, did he not?

A Usually he was alone, but that time of the incident they were four.

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Q Did they live with you at your house in Cabatangan?

A Yes. Do you mean my brothers?

Q Yes.

A Yes.

Q What did your father do for a living before the 4th of April, 1945?

A He was engaged in a little farming, planting casaba, sweet potatoes, and other vegetables.

Q Did he own his own farm?

A Yes.

Q Did your brothers help him on the farm?

A Yes.

Q What did your father do with the food products that he got from his farm?

MR. AITKEN: I am going to object to any further questioning along this line now. I think it has gone far enough. I think I understand the purpose of it. If my understanding is correct, it is absolutely immaterial. If the purpose of this is to show a connection with the guerrillas, and so forth, I just want to reiterate what I stated already -- that an association with the guerrillas or trafficking with them did not permit the Japanese to arrest and condemn and execute them, and particularly without any trial. So, even if they were guerrillas themselves and not caught redhanded, they would still be entitled to a trial; and the Japanese forces had no right here to hold trials and condemn and much less to execute, when there was no trial. So it is all immaterial.

COLONEL STICKNEY: Anything from the defense?

MR. SCHWARTZ: Yes. I think both the defense and the Commission are entitled and have a right to know the status, both as to the alleged victims mentioned in the

Q What did your father do for a living before the 4th of April, 1945?

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COLONEL STICKNEY: Anything from the defense?

MR. SCHMIDT: Yes. I think both the defense and the Commission are entitled and have a right to know the status, both as to the alleged victims mentioned in the

Specifications, also as to the witnesses testifying here. I have made no such contention as Mr. Aitken states -- that these people can be summarily executed. In fact, I have never discussed the point, neither Mr. Ward nor myself. That is not the purpose of bringing these facts out. But, I think in evaluating the testimony, in evaluating the facts involved in the particular case, both sides as well as the Commission are entitled to and should know the status of the people involved. What did they do for a living? What are their connections with other persons, particularly with other military organizations in the vicinity? And we have not, up to this time, made any mention as to the weight which is to be given to such testimony, but certainly I think we are entitled to bring it before the court for whatever probative value it may have.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

A He used it for their own needs.

Q How big was this farm that he had?

A As I said, it is little, because he used them for their own needs.

Q Did he sell or give any of the food that he raised to any of the guerrillas?

A No.

Q Or did he sell or give any of the food that he raised to any of the USAFFE?

A No.

Q Did you know any guerrillas in that vicinity?

A No.

Q Did you know any USAFFE in that vicinity?

A No.

Q Did your father ever tell you that he had anything to do with the guerrillas or the USAFFE?

A No.

Q You told us a few minutes ago that the last time you saw your father alive was about two days before the 4th of April, 1945. Did your father customarily leave and go away for a few days at a time when you did not see him?

A He did not go anywhere else. Only he was there at his farm.

Q Was it often that you didn't see him for two or three days at a time?

A I could see him at the time he passed by my house from his farm to his house.

Q You lived in the same house, did you not?

A Actually, we were not living in the same house, but his house was quite near to mine.

Q About how far was his house from yours?

A I think the distance of the house of my father from mine is approximately the distance from the place I am sitting now to that wall of the next building (indicating).

MR. WARD: Didn't we estimate that once as being thirty-five feet?

MR. AITKEN: Thirty-five feet.

MR. WARD: It is so stipulated.

Q Did anyone else live in that house with your father?

A He was alone.

Q Do you know whether he was away from his house quite often?

A I did not know.

Q Before the last time when you saw him alive, which was a couple of days before the 4th of April, 1945, had you seen him every day?

A As I said, I was not able to see him every day. That is why I said I saw him two days before the date I mentioned.

Q In other words, before April 4, 1945, you did not see your father every day, is that correct?

A Yes.

Q You say you are now living at the Bacolod-Murcia Milling Company, is that right?

A Yes.

Q Is that in Bacolod?

A Yes.

Q Now, that is not the same place where you were living on the 4th of April, 1945, is it?

A Yes, that is a different place.

Q When you saw Tanique on the 4th of April, 1945, was it at your house -- that is, the place where you were living in Cabatangan -- or was it at the evacuation house near the city of To-ong?

A It was in the evacuation place at To-ong.

Q How did you get from that place to the place where you found the body of your father?

A He was alone.

Q Do you know whether he was away from his house quite often?

A I did not know.

Q Before the last time when you saw him alive, which was a couple of days before the 4th of April, 1945, had you seen him every day?

A As I said, I was not able to see him every day. That is why I said I saw him two days before the date I mentioned.

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A Yes, that is a different place.

Q When you saw Tanique on the 4th of April, 1945, was it at your house -- that is, the place where you were living in Cabatangan -- or was it at the evacuation house near the city of To-ong?

A It was in the evacuation place at To-ong.

Q How did you get from that place to the place where you found the body of your father?

A We walked.

Q Was anyone else with you, besides Tanique?

A No one else. We were only two.

Q How long did it take you to walk from the evacuation house to the place where you found your father's body?

A I am not able to recall, because at the time Tanique informed me about the death of my father I was very much worried.

Q About how long after noon was it when you first saw Tanique?

A I was not able to note.

Q Do you usually eat at the noon hour?

A Yes.

Q Had you already eaten your noon-day meal when you saw Tanique?

A Yes, after the noon meal.

Q And about how long after you had your noon meal was it when you saw Tanique?

A Not long after we have taken our noon meal and he arrived and informed me that my father was killed by the Japanese.

Q Do you remember whether the sun was shining that day?

A Yes, that was after the noon meal.

Q How high in the sky was the sun when you saw Tanique at your house that day?

A I was not able to note, because I was not able to look up where the sun was.

Q At the time you arrived at the place where you found your father's body, was the sun still shining?

A There was still the sun shining, but I was not able to note what time it was.

Q Who first found the body of your father -- you or Tanique?

A Tanique. He was even the one who pointed to me the dead body of my father.

COLONEL STICKNEY: The Commission will recess and will reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

The Commission met, pursuant to recess, at 1300 hours.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all of the members of the Commission, the prosecution, the defense counsel, the defendant and his personal interpreter, the assigned Interpreters Genoves and Belaong, and the reporter are present.

Will you remind the witness that she is proceeding under the oath previously administered?

(Interpreter Genoves so informed the witness.)

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(Interpreter Genoves so informed the witness.)

NATIVIDAD DIZON

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

CROSS-EXAMINATION (Cont'd.)

BY MR. SCHAUER:

Q How far from your father's body was the body of Mirivelles?

A I cannot recall.

Q You saw the body of Mirivelles, did you not?

A Yes.

Q Was it as far away from the body of your father as I am from you?

A It was a long time ago and I cannot recall now.

Q Was the place where you saw the body of your father near Magbuyo Mountain?

A Yes.

Q Was it on the trail that you saw the body of your father?

A Very near the trail.

Q Was the body on the trail or off of the trail to one side?

A By the side of the trail.

Q And about how many meters from the trail was the body?

A I cannot calculate now.

Q But the body was not on the trail, it was off from the trail, was it not?

A Yes.

Q Was the body of Mirivelles on the trail or off of the trail?

A I cannot remember now because at the time I saw my father I was very much worried.

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A By the side of the trail.

Q And about how many meters from the trail was the body?

A I cannot calculate now.

Q But the body was not on the trail, it was off from the trail, was it not?

A Yes.

Q Was the body of Mirivelles on the trail or off of the trail?

A I cannot remember now because at the time I saw my father I was very much worried.

Q Now, as you were walking up this trail, was the body of your father on the right side of the trail or on the left side?

A On the left side of the trail.

Q Was it as far from the edge of the trail as from where you are sitting to this position here (indicating one of the side beams of the courtroom)?

A I cannot tell now because I forget.

Q You say that you saw some wounds on the body of your father. Would you point out where those wounds are? Just point out on me.

A (Indicating) This right here, this part.

MR. WARD: That would be the position of the middle of the right nipple.

Q Was it a small cut?

A There were two, but --

COLONEL STICKNEY: In connection with that question, "A small cut," I believe she pointed to two small places, did she not, so it seemed to me.

MR. SCHAUER: I don't know. I was not sure.

Q You say one cut was about here (indicating the nipple on the right breast). Now, will you point out where the other cut was?

A They were near each other.

Q Will you point out on me where the other cut was?

A (Indicating)

MR. SCHAUER: That would be on the right breast about approximately two inches apart.

MR. AITKEN: Right, two inches apart.

INTERPRETER GENOVES: Excuse me, sir, may I know whether there is an answer before it has been demonstrated?

COLONEL STICKNEY: I don't understand.

INTERPRETER GENOVES: The stipulation was made before I gave the answer of the witness to the question.

COLONEL STICKNEY: Do you have an answer to give now?

INTERPRETER GENOVES: Sir, I have not given the answer yet.

COLONEL STICKNEY: You haven't given it yet?

INTERPRETER GENOVES: Not yet.

COLONEL STICKNEY: Give the answer, please.

INTERPRETER GENOVES: "The other one is a little distance from the one I have pointed out before from the other."

MR. SCHAUER: And, I believe that was the distance that we, according to the witness' indication on me, it was about two inches apart.

COLONEL STICKNEY: Yes, I think we have had that at least three times.

Q How big were those wounds?

A They were not very big wounds. They appeared to have been caused by a thrust.

Q Were either of the cuts longer than that? (Indicating about two inches)

A Do you mean the length or the --

Q Yes, the length of the cut.

A Do you mean the distance between the two wounds or the length of the wound itself?

Q The length of the wound itself.

A The wound (indicating) like this.

MR. SCHAUER: That would be about one-half inch?

MR. AITKEN: About one-half inch.

COLONEL STICKNEY: I don't understand.

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COLONEL STICKNEY: Do you have an answer to give now?

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A They were not very big wounds. They appeared to have been caused by a thrust.

Q Were either of the cuts longer than that? (Indicating about two inches)

A Do you mean the length or the --

Q Yes, the length of the cut.

A Do you mean the distance between the two wounds or the length of the wound itself?

Q The length of the wound itself.

A The wound (indicating) like this.

MR. SCHAUER: That would be about one-half inch?

MR. AITKEN: About one-half inch.

COLONEL STICKNEY: I think the record had better show something about what you were showing and something about what her answer is.

MR. SCHAUER: Would you say two inches was the distance?

MR. AITKEN: A little more than two inches I would say for yours, about two and one-half inches, and hers would be about one-half inch.

MR. SCHAUER: We have agreed on two inches as the distance.

MR. AITKEN: Two and one-half inches.

MR. SCHAUER: Two and one-half inches, pardon me.

COLONEL STICKNEY: And a half inch as the distance that she explained?

MR. SCHAUER: That is correct.

Q Each of the two cuts, then, on your father's breast were about as long as you have just told us, is that right?

A Yes.

Q Were there any other cuts or wounds on his body?

A I did not examine some part of his body.

Q Did you see any other cuts or wounds on his body?

A No others.

Q When you say you did not examine some parts of his body, do you mean that you did not take off any of his clothes?

A No, I did not take off his clothes.

Q Did Tanique take off any of your father's clothes?

A No.

Q Were there any wounds on his face?

A No.

Q Were there any wounds on his back?

A I did not examine.

Q Were there any wounds on the head?

A I did not also examine.

Q Do you know whether there were any wounds on the back of his neck?

A No.

Q You say there were no wounds on the back of his neck, is that right?

A No.

Q When you first saw the body of your father, was it lying face down or was he lying on his back?

A He was lying on his back.

Q Did you look at or search his pockets at that time?

A No.

Q Did Tanique take anything out of your father's pockets at that time?

A No.

Q Did either you or Tanique take anything out of your father's pockets at all from the time that you first saw him there until the time that you buried him?

A No.

Q Did your father have on any shirt at the time when you saw him there?

A Yes, he had his clothes.

COLONEL STICKNEY: What was that?

MR. AITKEN: Cloth.

INTERPRETER GENOVES: Clothes.

Q Was the upper part of his body --

COLONEL STICKNEY: I would like to hear from the reporter what he had.

THE REPORTER: "Yes, he had his clothes."

Q Was there any clothing on the upper part of his body from his waist up to his shoulders?

A Yes.

Q What did he have on, on that part of his body?

A A jacket.

Q Did you see any wounds on the body of Mirivelles?

A I was not able to examine him.

Q Did you see any other body than that of your father?

A Yes, I saw the body of Mirivelles.

Q Was the body of Mirivelles lying face down, or was it on its back -- lying on its back?

A I was not able to note the position of the body of Mirivelles.

Q Did you see the face on that other body?

A No, I was not able to note.

Q Then, when you say it was the body of Mirivelles, you say that only because someone told you that was the body of Mirivelles, isn't that right?

A Yes.

Q And the person that told you that was Tanique?

A Yes.

Q Did Tanique dig a grave at that time for your father's body?

A Two of us.

Q Both of you dug the grave, is that right?

A Yes.

Q How far from your father's body was the place where you dug the grave?

A The place where we dug the grave was right there near the place where the bodies were lying.

Q Was there any clothing on the upper part of his body from his waist up to his shoulders?

A Yes.

Q What did he have on, on that part of his body?

A A jacket.

Q Did you see any wounds on the body of Mirivelles?

A I was not able to examine him.

Q Did you see any other body than that of your father?

A Yes, I saw the body of Mirivelles.

Q Was the body of Mirivelles lying face down, or was it on its back -- lying on its back?

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A Yes.

Q Did Tanique dig a grave at that time for your father's body?

A Two of us.

Q Both of you dug the grave, is that right?

A Yes.

Q How far from your father's body was the place where you dug the grave?

A The place where we dug the grave was right there near the place where the bodies were lying.

Q Was the place where the grave was dug as far from your father's body as I am from the place where you are now sitting?

A I was not able to note.

Q Did you have to carry the body a little way in order to put it into the grave?

A No.

Q Did you have to roll it over or slide it into the grave?

A Just right in the place where the grave was dug were the bodies and we have to roll it immediately to the grave.

Q You rolled the body from where it was lying into the grave, is that right?

A Yes, we just moved it a little.

Q Did you roll it?

A No, we just moved it.

Q Who buried Mirivelles?

A I and Tanique.

Q Did you help him bury Mirivelles?

A Yes.

Q Didn't he take something from Mirivelles' pockets at the time when the two of you buried Mirivelles?

A No.

Q Did you take anything from Mirivelles' pockets or clothes at that time?

A No.

Q Had you heard that when Mirivelles was arrested by the Japanese that they took some guerrilla currency from his pockets?

A No.

Q Had you heard that when your father was arrested by the Japanese on the 4th of April, 1945, that the Japanese in searching him found guerrilla currency on his person?

A No.

Q Did you help to move the body of Mirivelles into the grave?

A Yes, the two of us.

Q Now, when you helped move the body into the grave, did you see any wounds on it?

A No. I was not able to note.

Q Did Tanique tell you that the wounds on your father's body had been caused by a bayonet?

A Yes.

Q And it was Tanique, was it not, who told you that your father had been killed by a bayonet?

A Yes.

Q When did you leave Negros to come up here to Manila?

A It was on September 7, 1946.

Q And you came up here with some other witnesses who have testified here in this case, did you not?

A I do not know.

Q Do you know Demetria Villas?

A No.

Q Do you know Cesar Lamio?

A No.

Q Do you know Tiburcio Jonota?

A Yes.

Q Do you know Primitiva Casabuena?

A No.

Q Did you come up here on the same boat with Tiburcio Jonota and Gil Tanique?

A Did you mention Tiburcio Jonota?

Q Yes.

A Yes, I was with them.

Q And you have been with them a good deal of the time since you left Negros on September 7, have you not?

A Yes.

Q You knew when you were coming up here from Negros that you were coming up here to testify against the person you know as Captain Nanjo, is that correct?

A No.

Q Didn't anybody tell you that you were going to testify about what happened on the 4th of April, 1945?

A No.

Q You didn't know then at all why you were coming up here, is that right?

A No.

Q Since you left Negros on the 7th of September of this year, have you heard either Tiburcio Jonota or Gil Tanique mention Captain Nanjo?

A No.

Q Did either Jonota or Tanique tell you or point out to you Captain Nanjo?

A No.

Q Would you know Captain Nanjo, if you saw him?

MR. AITKEN: It is objected to at this time as absolutely immaterial, not proper cross-examination. This witness was not put on the stand to testify as to anything that Captain Nanjo did that she knew of. She merely arrived on the scene to bury her father and that is all she knows about it and all she has testified about. And who did it, so far as her own knowledge is concerned, anybody

could have -- she doesn't know anything about that.

COLONEL STICKNEY: Any reply?

MR. SCHAUFER: No reply.

MR. WARD: One little bit of a reply. On direct examination counsel asked her, "Who told you your father had died?" or substantially to that effect, and she said, "Gil Tanique told me Captain Nanjo had done it." If the prosecution on direct examination brought out from this witness the identity of the person who was supposed to have killed her father, it is substantial, if not sufficient, to allow us to ask any questions along that line and it would be proper.

COLONEL STICKNEY: It seems to me to have no importance. However, the objection is not sustained.

(The reporter read the question.)

A Yes, I knew him.

Q Had you ever seen him before April 4, 1945?

A Yes.

Q And where had you seen him?

A I saw him at Boroboro Station.

Q Had you seen him at Boroboro Station once or more than once?

A More than once.

Q Can you tell us about when it was that you first saw Captain Nanjo at Boroboro garrison?

A That was on the market day at Boroboro.

Q In what year was it when you first saw Captain Nanjo at Boroboro?

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A Yes.

Q And where had you seen him?

A I saw him at Boroboro Station.

Q Had you seen him at Boroboro Station once or more than once?

A More than once.

Q Can you tell us about when it was that you first saw Captain Nanjo at Boroboro garrison?

A That was on the market day at Boroboro.

Q In what year was it when you first saw Captain Nanjo at Boroboro?

A I saw him in 1944 and in 1945.

Q About how many times altogether have you seen Captain Nanjo?

A I almost saw him five times in a month.

Q Do you remember which month in 1944 it was when you first saw him?

A I cannot remember the month.

Q Was it early in 1944 or late in 1944?

A Almost the last months of 1944.

Q Was it always at market day that you saw Captain Nanjo?

A I saw him at the station at Boroboro sometimes three times in the week.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Redirect examination?

MR. AITKEN: Yes.

REDIRECT EXAMINATION

BY MR. AITKEN:

Q Do you see Captain Nanjo in the courtroom?

A Yes.

Q Will you step up and walk over and touch him?

A May I point him only?

Q Go over to the table and point him out.

(The witness approached the table of defense counsel and pointed.)

A He is in the middle.

COLONEL STICKNEY: The record will show the witness pointed to the accused.

MR. AITKEN: Nothing further.

COLONEL STICKNEY: Any recross-examination?

MR. SCHAUER: Nothing further.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Did you know Mirivelles?

A Yes.

Q Were Mirivelles and your father buried in the same grave?

A No.

Q Were they buried in separate graves?

A Yes.

Q How far apart were the two graves?

A I was not able to note, because it was a long time ago.

Q Was each buried in a grave close to where he fell?

A Yes, sir.

Q Was the difference between your father's grave and Mirivelles' grave as far as from where you are sitting over to the next ell of this building?

A I was not able to note.

Q Was it as far as from where you are sitting to the flag-pole on the Army-Navy Club?

A I cannot recall it, sir, as it was a long time ago.

Q Are you sure that the second body was the body of Mirivelles?

A Yes, sir.

Q Would the two bodies have been buried a mile apart?

A No, because I was not able to note.

COLONEL STICKNEY: Any recross-examination?

MR. SCHAUER: Nothing further,

COLONEL STICKNEY: Questions by the Commission?

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BY COLONEL STICKNEY:

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A Yes.

Q Were Mirivelles and your father buried in the same grave?

A No.

Q Were they buried in separate graves?

A Yes.

Q How far apart were the two graves?

A I was not able to note, because it was a long time ago.

Q Was each buried in a grave close to where he fell?

A Yes, sir.

Q Was the difference between your father's grave and Mirivelles' grave as far as from where you are sitting over to the next ell of this building?

A I was not able to note.

Q Was it as far as from where you are sitting to the flag-pole on the Army-Navy Club?

A I cannot recall it, sir, as it was a long time ago.

Q Are you sure that the second body was the body of Mirivelles?

A Yes, sir.

Q Would the two bodies have been buried a mile apart?

A No, because I was not able to note.

Q Could it be that the two bodies were buried a kilometer apart?

A I cannot tell, because I cannot now remember.

Q Which body was found first -- your father's body or Mirivelles' body?

A My father's.

Q And was your father buried at the time his body was found?

A Yes.

Q After burying your father, did you proceed on to another point and find another body?

A No.

Q Was the other body lying in the immediate vicinity of where your father was buried?

A Yes, sir.

Q Could it have been a kilometer away?

A I was not able to note, because it was a long time ago.

Q Would you call a kilometer away the immediate vicinity?

A I cannot tell.

Q How do you know the other body belonged to Mirivelles?

A Because Gil Tanique pointed it to me.

Q Previous to the day he was killed, how often did you used to see Mirivelles?

A We seldom met each other.

Q After the two bodies were buried, did you return directly home?

A Yes.

Q Was the home to which you returned in sitio To-ong or sitio Cabatangan?

A Sitio Cabatangan.

Q What time did you arrive there?

A I cannot recall the hour.

Q Did you get there before dark?

A I was not able to note.

Q What is sitio Cabatangan?

A Sitio Cabatangan is a place of vegetation.

Q And what is sitio To-ong?

A They are the same.

Q It is also a place of vegetation, you mean, is that correct?

A Yes.

Q Are they two different places of vegetation or two names for one place of vegetation?

A Sitio To-ong is a different place of vegetation than that of sitio Cabatangan.

Q Are you familiar with the Cabatangan River?

A No.

BY COLONEL MacKINTOSH:

Q What were you doing while Gil Tanique was digging the grave for your father?

A I helped him in digging the grave.

Q When your father's body was being put into the grave, did you touch his body?

A Yes, we moved him to the grave.

Q : What part of your father's body did you touch at that time?

A I held my father's upper part of the body.

Q Could you see the back of his neck while you were holding the upper part of his body?

A No.

Q Did you ever see the back of his neck after he was dead?

A No.

Q Did you help Gil Tanique dig the grave for the other body?

A Yes, sir.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

Q : What part of your father's body did you touch at that time?

A I held my father's upper part of the body.

Q Could you see the back of his neck while you were holding the upper part of his body?

A No.

Q Did you ever see the back of his neck after he was dead?

A No.

Q Did you help Gil Tanique dig the grave for the other body?

A Yes, sir.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

Q : What part of your father's body did you touch at that time?

A I held my father's upper part of the body.

Q Could you see the back of his neck while you were holding the upper part of his body?

A No.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that she is still proceeding under the same oath?

(Interpreter Genoves so reminded the witness.)

Q Did you see any blood on the body of your father while you were helping Gil Tanique bury it?

A Yes.

Q Where?

A On his breast.

Q Anywhere else?

A No other else.

Q Did you help Gil Tanique bury the body that he told you was that of Mirivelles?

A Yes, sir.

Q Did you touch that body while you were helping Gil Tanique bury it?

A No.

Q How did you help Gil Tanique bury that body?

A We moved the body to the grave.

MR. AITKEN: What was that answer, please?

INTERPRETER GENOVES: "We moved the body to the grave."

Q Did you both remove the body?

A Yes, sir.

Q Did you see any blood on that body?

A You mean Mirivelles?

Q Yes.

A Yes, sir.

Q Where?

A On his shoulder.

Q On which shoulder?

A On his right shoulder.

Q Anywhere else?

A No other else.

Q Did you see the wound from which the blood on Mirivelles' right shoulder came?

A I did not see the wound.

Q Was the upper part of Mirivelles' body clothed?

A Yes, sir.

Q Could you see the grave of your father from the grave of Mirivelles?

A Yes, sir.

Q How far was the grave of your father from the grave of Mirivelles?

A I cannot tell now because I have forgotten.

Q Would you say that Captain Nanjo was a friend of yours?

A No.

COLONEL MacKINTOSH: That is all, I have.

COLONEL STICKNEY: Any further questions by the Commission?

BY MAJOR FRITZ:

Q When you saw your father for the first time, that is, his body, what was the position of his hands?

A I did not notice.

Q Did you help carry your father's body to the grave which was prepared for him?

A Yes, we moved him to that grave.

Q At that time what was the position of his hands?

A I cannot tell now the position of his hands.

Q Were they on his breast or placed by his side?

A I did not notice.

Q Did you notice whether your father's hands were tied in any manner?

A No.

MAJOR FRITZ: No further questions, sir.

BY MAJOR HERR:

Q Did you wrap either or both of the bodies in a blanket or other covering before putting them in the grave?

A No.

Q How long did it take you to dig the grave, do you recall?

A Not very long because we were in a hurry.

Q And by thinking real hard, do you remember whether you got home while it was still daylight, or by that time was it dark?

A I cannot remember the time we arrived home.

BY COLONEL STICKNEY:

Q Were Mirivelles' hands tied when you saw his body?

A I did not see.

Q Coming back from the graves to your home, could you tell us how far it is in kilometers or how long it took you to come down the hill on foot?

A I cannot calculate the distance.

BY COLONEL MacKINTOSH:

Q Were the heads of your father and Mirivelles still attached to their bodies, or were they severed?

A They were still attached.

COLONEL STICKNEY: Anything further from the defense?

RE CROSS-EXAMINATION

BY MR. SCHAUER:

Q . Did Tanique call your attention to the wounds on your father's body?

A Yes.

Q And he pointed out the wounds to you, did he not?

A Yes, those wounds on the breast.

Q And those were the only two wounds that he pointed out to you on your father's body, were they not?

A Yes.

Q When you say you returned home, do you mean to your home in Cabatangan and not to the evacuation house at To-ong?

A I refer to Cabatangan.

Q Was the sun still shining when you got back to your home at Cabatangan?

A I cannot recall.

Q Was it still daylight when you got back to your house at Cabatangan?

A I cannot recall now.

Q Was it daylight when you left the place where you buried the two bodies?

A I cannot remember now, because when we left the place where my father and the other body was buried I was grief-stricken.

Q Did you notice whether or not any of Mirivelles's clothing was torn?

A No.

Q When you say "no" do you mean you didn't see any of the clothing torn or that you didn't notice whether or not it was torn?

A I mean I didn't notice.

MR. SCHAUER: That is all.

MR. AITKEN: I have a question that I would like to ask.

FURTHER REDIRECT EXAMINATION

BY MR. AITKEN:

Q At the time you and Tonique came to the scene where the bodies of your father and Mirivelles lay, did you see both bodies at the same time or did you have to search around for one?

A When we arrived we first saw one.

Q And that one was your father?

A Yes.

Q While you were burying your father, could you see the other body?

A Yes.

MR. AITKEN: That is all.

COLONEL STICKNEY: Anything further? That is all for this witness?

MR. AITKEN: Yes.

MR. WARD: The witness is also released by the defense. She may go home.

(Witness excused)

MR. AITKEN: The next witness, Marcos de Tomas, is called in behalf of the 6th and 7th Specifications.

MARCOS DE TOMAS

a witness for the prosecution, being first duly sworn,
was examined and testified as follows, through
Interpreters Genoves and Belaong:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Do you talk English?

A No.

Q State your name.

A Marcos de Tomas.

Q Your age?

A Twenty-eight.

Q And what is your residence in Negros?

A Hacienda Carmen, jurisdiction of Granada, Bacolod.

Q Were you there on or about the 5th of December, 1944?

A Yes, I was there.

Q Do you know Dionisio Letosa?

A Yes, I know him well.

Q Were you arrested there on or about that date by
the Japanese?

A Yes, we were arrested.

Q How many were arrested with you?

A That day we were six that were arrested in that
Hacienda.

Q What Hacienda?

A I mean Hacienda Carmen.

Q Who were the six?

MR. WARD: Objection. That is completely
immaterial. We are charged with killing one, are we
not? Yes.

COLONEL STICKNEY: Objection is not sustained.

A Dionisio Letosa, Feling Amador, Felicito Alba, Amboy Palomo and Clarito Rubrico, and the sixth was I.

MR. SCHAUER: I would like to ask counsel at this time if he is proceeding under Specification 6 or 7.

MR. AITKEN: Both. The same testimony will refer to both.

MR. SCHAUER: I know the names as given were the names mentioned in Specification 7, rather than in Specification 6.

MR. AITKEN: That is why the same testimony will apply to both.

Q When you mentioned the name Palomo as "Amboy Palomo", is that the same person known as "Pablo Palomo"?

A I think that is Pablo. I think the name "Amboy Palomo" also applies to Pablo Palomo, as the Christian name, because Amboy is a nickname.

Q And Feling Amador?

A That means in a Christian name Felix. Feling is only the nickname.

MR. AITKEN: I think those were the only departures from the regular names.

Q Where were you and what were you doing at the time of your arrest?

A At the time we were in our evacuation place at Hacienda Carmen, shortly before we were arrested. We were gathered and about to drink the tuba that we bought.

Q Where is the Hacienda Carmen?

A It is east of Granada.

Q Municipality of what?

A Municipality of Bacolod.

Q In whose house were you gathered : • where you were going to drink tuba?

A It was the house of Dionisio.

Q By Dionisio, do you mean Dionisio Letosa?

A Yes.

Q What happened there that morning?

MR. WARD: Objection. At this time, unless we are going to depart again from the Specifications, we have a house which was east of Granada, near Bacolod. In Specification 6, we have near Hacienda Francisco; and in Specification 7, we have near Bacolod City. We have nothing in the Province of Granada, which is apart from Bacolod City. Especially, we have a different Hacienda mentioned than Hacienda Carmen.

MR. AITKEN: There isn't any such place as Province of Granada. The witness just testified Granada is a barrio -- a barrio of the city of Bacolod. Furthermore, the two Specifications refer to a continuation of events beginning on one date and winding up on another. Everything didn't happen in one place.

MR. WARD: If counsel is laying some sort of foundation at this time, there is no objection from the defense, but if he is trying to cite some sort of offense at a different date or at a different place, certainly it is objectionable by the defense, as without the Specifications.

COLONEL STICKNEY: Is there an objection?

MR. WARD: There is an objection.

COLONEL STICKNEY: What is the objection?

MR. WARD: The objection is that a proper foundation should be laid before we go into the events of some specific offenses without the places being designated in the Specifications as the places the witness is talking about.

COLONEL STICKNEY: The objection is not sustained.

MR. AITKEN: What is the last question?

(The reporter read the question.)

A You mean in the morning?

Q The morning when you were at the house of Dionisio Lotosa, about to drink tuba. What happened there?

A The Japanese ordered us to go down from the house and then they arrested us.

Q How many Japanese?

A I could not tell how many Japanese there were, because there were many, but those who went to that place where we were were five Japanese.

Q Who commanded that Japanese party?

A Captain Nanjo.

Q Now, how did they proceed to arrest you?

A They ordered us to carry for them coconuts they had with them going to Boroboro.

Q And did they give you the coconuts to carry?

A Yes, they gave us the coconuts to be carried.

Q How many of you were there to receive coconuts to carry?

A Six of us.

Q From that place, where did you proceed?

A We proceeded to the garrison of Boroboro.

Q And on the way did you have to pass through the Hacienda Francisco?

A We only passed by the vicinity of that Hacienda Francisco, because we only followed the road going to Boroboro.

Q Did anything happen to Dionisio Letosa on that trip?

MR. WARD: Objection. If the counsel wishes to word his question "near Hacienda San Francisco," that is perfectly satisfactory, but the count is alleged Hacienda Francisco. He asked, "Did it happen at Francisco?" He gets a contrary answer. Now, he wishes to bring it in on the whole trip. We object. The defendant is not put on notice in these things. The counsel can proceed in the ordinary manner, but he certainly can't proceed in trying to lay a foundation, failing to do so and asking the question anyway. The defense certainly objects here.

COLONEL STICKNEY: What is your objection?

MR. WARD: That the place, Hacienda San Francisco --

COLONEL STICKNEY: There is no San Francisco.

MR. WARD: Francisco. I believe it is also called San Francisco.

COLONEL STICKNEY: I don't know about that.

MR. WARD: He attempts to place an event near Hacienda Francisco. At the time he gets a contrary answer from the witness. In spite of the contrary answer and failing to lay a foundation, he asks the events to be carried forth. If he places it at the Hacienda Francisco, there is no objection from the defense, but he purposely fails to do so. Objection by the defense.

COLONEL STICKNEY: He has gone past the vicinity of Hacienda Francisco, has he not?

MR. WARD: That is correct.

COLONEL STICKNEY: Now, will the reporter please read the question?

(The reporter read the question.)

MR. AITKEN: The witness answered that on the way to Boroboro they had to pass in the vicinity of Hacienda Francisco. Now, I am asking what happened.

MR. WARD: The question, as I say once more, could be worded, "What happened at or near Hacienda Francisco?" Counsel is not wording it that way. That is what we are objecting to on the whole trip. We have a seventeen-kilometer trip in a former count and in this trip we have no knowledge of how long it was, what the distance was. All we know is, "Did the trip pass Hacienda Francisco?" The next question, "What happened on the trip?" There is no locality specified. All we are asking counsel to do is to specify a locality.

COLONEL STICKNEY: Any reply?

MR. AITKEN: No further reply.

COLONEL STICKNEY: I believe the counsel for the prosecution is going to attempt to prove that something happened at or near Hacienda Francisco.

MR. AITKEN: Right.

COLONEL STICKNEY: And the objection of the defense is sustained.

Q When you were proceeding from Letosa's house towards Boroboro and you were in the vicinity of the Hacienda Francisco, did anything happen to Letosa?

A When we were going to Boroboro nothing had as yet happened, but when we were going downward something happened.

Q Downward from where?

A From Boroboro going to the barrio.

Q What happened there?

MR. WARD: Objection at this time and again there is no foundation --

MR. AITKEN: I will withdraw the question.

COLONEL STICKENY: The Commission will take a recess and will reconvene at 0830 hours on the 18th of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 18 October 1946.)

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME XI

PAGES 670 - 729 , INCL.

DATE: 18 October 1946
COPY NO. 1

MANILA, P. I.

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

Before a
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

VS

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
18 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF. President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd Lt. HAKUZO NITTA)
T/3 TAKEO SAITO) Japanese

FILOMENA ZOSA)
PEDRO GENOVES) Ilongo (Visayan)
MACARIO E. BELAONG)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Marcos de Tomas (Cont'd)	671	683 705 714			711
Leopoldo Agravante	717	724			

P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 18 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the assigned interpreters, the reporter are all present in Court. The witness on the stand is Marcos de Tomas.

Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Belaong so reminded the witness.)

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(Interpreter Belaong so reminded the witness.)

MARCOS DE TOMAS

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

DIRECT EXAMINATION (Cont'd.)

BY MR. AITKEN:

Q Yesterday you stated that you were arrested in the house of Dionisio Letosa with five others, including Letosa, and that you were taken from there to Boroboro. Now, how long were you detained at Boroboro?

A When they brought us to Boroboro that day, we were also returned to Granada and the time was about sunset when we returned to Granada.

Q What time did you leave Boroboro to return to Granada?

A I cannot calculate what time we left Boroboro because I was frightened at that time.

Q How long did you stay or rest in Boroboro before proceeding on to Granada?

A I cannot tell exactly how long we stayed at Boroboro, but the fact was that we reached Boroboro when the sun was about noon, and we left that place about sunset.

Q Now, is Boroboro a barrio of the municipality of Bacolod?

A Boroboro is not a barrio, it is a sitio. It is a hacienda. However, that is under the jurisdiction of the municipality of Bacolod.

Q Now, when you left Boroboro and proceeded to Granada, were you proceeding then towards Bacolod?

A Yes, but we had not yet reached Granada.

Q Now, do you know a hacienda called the Hacienda Francisco?

A Yes.

Q Where is it with relation to Boroboro and Granada?

A Hacienda Francisco is situated between Granada and Boroboro.

Q Proceeding from Boroboro towards Granada, did you pass the Hacienda Francisco?

A Yes, you will have to pass that.

Q Granada is a barrio, is it not, of the city of Bacolod also?

A Yes, it is a barrio.

Q Now, when you arrived in the vicinity of the Hacienda Francisco, did anything happen to Letosa?

A When we were passing through Hacienda Francisco, as we were walking in which Dionisio Letosa had his hands tied behind his back, one of the soldiers of Captain Nanjo pulled him out from our line and brought him near the coconut tree and there he was hacked by a saber.

Q Was Captain Nanjo there?

A Yes, he was the one who hacked Letosa.

Q Did you see it?

A Yes, I saw him myself because we were together.

Q Did you hear anything?

A I heard Letosa moaning with pain because of the wound administered to him.

Q How long did you stop there at that point?

A After Dionisio was pulled out from our line and he was hacked, we left him there and we proceeded.

Q Were ~~your~~ hands tied at the time?

A No. Only Dionisio had his hands tied.

Q Now, do you know a hacienda called the Hacienda Francisco?

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Q Did you hear anything?

A I heard Letosa moaning with pain because of the wound administered to him.

Q How long did you stop there at that point?

A After Dionisio was pulled out from our line and he was hacked, we left him there and we proceeded.

Q Were ~~your~~ hands tied at the time?

A No. Only Dionisio had his hands tied.

Q How many prisoners were there at the time?

A As far as I could remember we were six, that means I and my other five companions.

Q Now, from that point, did you proceed on to Bacolod?
I will withdraw that.

From that point did you proceed on to Granada?

A Yes.

Q Now, how long did you remain in Granada?

A We were overtaken there by darkness.

MR. AITKEN: By what?

INTERPRETER BELAONG: By darkness, by the dark.

Q And did you stay there?

A Yes, we stayed there until their truck arrived.

Q About when did the truck arrive? -- I will add to the question. Was it that night or the next morning?

A The truck arrived there that same night.

Q And when the truck arrived, did you proceed to Bacolod or did you stay there?

A Soon after the truck arrived we were hauled into the truck.

Q Who went with you, not referring to the companions but what Japanese?

A Captain Nanjo and his soldiers.

Q Did you arrive at Bacolod that night?

A Yes.

Q And what did they do with you in Bacolod that night?

A When we reached Bacolod all of us five were tied with our hands behind and then we were placed in the cell.

Q In the what?

A In the cell.

Q Do you know what building?

A I could not tell what place was that cell or the name of the building, because at that time when we arrived it was dark.

Q Now, how long were you kept in that building?

A We were detained there for three days.

Q During that period of time was there any trial of any kind?

A During those three days we were kept there we were not investigated or given a trial or anything of that sort.

However, on the third day with our hands tied they also tied us with a rope joined together, and they brought us to a hole. The time was about sunset.

Q Now, to a hall did you say or to a hole?

INTERPRETER BELAONG: Hole, h-o-l-e.

Q Now, how many of you did they bring to that hole about sunset?

A I could remember that we were only five for Dionisio was no longer with us.

Q In what position did you stand at the hole, all of you?

A We were lined up near that hole and we were standing facing the hole.

MR. AITKEN: I would like to ask if the witness indicated the distance they stood from the hole.

A Our distance from the edge of the hole would be about the length here, even if we fall we would not fall direct into the hole.

Q Well, could you indicate it on the table or on the floor? Suppose I am one of the five in the line, where would the hole be?

A (Indicating)

MR. WARD: Four feet?

MR. AITKEN: Four feet would be good enough.

A (Continued) At that time we were not standing then
but we were kneeling.

Q Now, where was this hole? In what part of Bacolod, in the city, whereabouts?

A I cannot tell what is the name of that locality where that hole was situated and where we were brought. I could remember, however, that it was in the vicinity of a church which they said was owned by a doctor nicknamed Toning.

Q Was this church -- this locality -- in the city proper, or was it on the outskirts of the city?

A I cannot tell if that was really in the city or not, but so far as I know it is within the city limits. That church was secluded.

Q What was your position in the line kneeling in front of this hole? Where were you? Begin from the left.

A I was at the extreme left.

Q Now, what did you see happen there at that time?

A While we were there kneeling, Captain Nanjo shouted with this word: "Kura!" Immediately thereafter his soldiers rushed towards us and pierced our companions with their bayonets fixed on their guns.

Q Now, were you all bayoneted at the same time or were you bayoneted one by one?

A At that time only one soldier was having his bayonet fixed on his rifle who was executing that thrust. First he killed one.

Q Which man did he kill?

A The one at the extreme right, first.

Q Do you remember who it was?

A Yes.

Q Who?

A That first man was Feling Amador.

Q And when he was bayoneted what happened to him?

A When he was bayoneted he fell.

Q Did he fall on the ground or did he fall into the hole?

A He fell on the ground where he knelt.

Q Then what happened?

A When Feling Amador was killed, thereafter that soldier next bayoneted one of our companions.

Q Who was he?

A The next man was Felicito Alba.

Q And did he fall?

A He also fell.

Q On the ground?

A He fell on the ground.

Q Then what happened?

A After Felicito Alba was killed, the next victim was Amboy Palomo.

Q How was he killed?

A He was also bayoneted, as an order came from Captain Nanjo: "Kura!" -- and his soldier answered: "Ho."

Q Then what happened?

A When the third man was bayoneted he also fell on the ground.

Q Now, after that what happened? The fourth man?

Q Do you remember who it was?

A Yes.

Q Who?

A That first man was Feling Amador.

Q And when he was bayoneted what happened to him?

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A He fell on the ground.

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A After Felicito Alba was killed, the next victim was Amboy Palomo.

Q How was he killed?

A He was also bayoneted, as an order came from Captain Nanjo: "Kura!" -- and his soldier answered: "Ho."

Q Then what happened?

A When the third man was bayoneted he also fell on the ground.

Q Now, after that what happened? The fourth man?

A And the next thing that happened again was this:
when Captain Nanjo ordered: "Kura" his soldier replied:
✓ "Ho." Thereafter, immediately his soldier bayoneted
Itong Rubrico.

Q You used the name "Itong." Is that Clarito Rubrico?

A ✓ Yes, sir, that Itong is a nickname for Clarito.

Q That left you the last. What happened to you?

A After Itong Rubrico was killed, I was the fifth
that was left and Captain Nanjo also shouted: "Kura," and
✓ immediately thereafter his soldier replied: "Ho," and
immediately also thrust his bayonet into me.

Q Now, did you fall too?

A Yes, because I was wounded with the bayonet.

Q Did you remain conscious or did you lose consciousness?

A At the first thrust of the bayonet I did not lose
consciousness, although I was hit on the right part of
my body (indicating).

MR. AITKEN: Indicating lower right ribs.

Is that right?

MR. WARD: I did not see where he indicated.

It is satisfactory if he indicated.

A (Continued) And at that time the bayonet happened to
be loose from the rifle. However, Captain Nanjo again
✓ shouted: "Kura" and his soldier also replied: "Ho," and
at the same time thrust his bayonet at me.

Q When you say "at me" do you mean a movement toward
me or into me?

A I was hit and I fell.

Q Did you lose consciousness then?

A Yes, I lost my consciousness at the second thrust.

Q Now, what was your condition and the condition at the place there when you regained consciousness?

A At the time I regained consciousness I found myself in the hole already filled up with earth.

Q Do you know what became of the others at that time that had been bayoneted?

A My other companions who were bayoneted were pushed into the hole.

Q Now, when you regained consciousness and you say the hole was filled up, what was it filled up with?

A The hole where I was in was filled up with earth and grasses.

Q Were you covered with earth and grasses?

A Yes, I was covered with earth and grasses. However, this back of mine was exposed (indicating).

COLONEL STICKNEY: The record should indicate that the witness placed his hand on his left shoulder.

Q And what did you do?

A When I gained consciousness, the Japanese were gone and I also finding myself alone, left.

Q About what time was it when you left?

A Do you mean to say after I had regained consciousness?

Q Yes, and found yourself in the hole.

MR. AITKEN: I will delete that question.

Q Did you manage to extricate yourself from the hole?

A Yes.

Q About what time was that?

A It was already night time when I left the hole. It was dark.

Q Then where did you go?

A I just crawled when I left that place until I was far away.

Q Then where did you go?

A And I managed myself to go home.

Q How long did it take you to recover from your wounds?

A When the Americans landed I had still my wounds.

Q Would you know Captain Nanjo, if you saw him?

A I know him well.

Q Will you look around the courtroom and see if you see him here. If you do, put your hand on him and touch him.

A He is here.

Q Touch him -- point him out to us.

(The witness approached the table of defense counsel and touched shoulder.)

A This is Captain Nanjo.

COLONEL STICKNEY: The record will show the witness placed his hand on the shoulder of the accused.

MR. AITKFN: Your witness.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is still under oath?

(Interpreter Belaong so reminded the witness.)

MR. AITKEN: I would like to ask this witness one further question.

Q Marcos, will you stand up here. Does your body show the scars of the bayonet wounds you received that day?

A Yes, I can show them if you so desire.

COLONEL STICKNEY: Will the reporter read the answer, please?

(Answer read by the reporter.)

Q Will you take your shirt off and allow the Commission to see these bayonet wounds?

(Witness removes shirt and stands in front of the Commission.)

Q Now, I will call your attention to the four scars on your back, three along the backbone, and one on the right side about four inches from the center of the backbone. I will ask you whether or not those are scars made from the bayonet wounds.

A All of these are caused by the bayonet.

Q And now will you state what other scars you have?

A (Indicating)

MR. AITKEN: I call your attention to three scars on the right ribs, the lowest one being below the lower rib, ...

Q I ask you whether or not those are scars from bayonet wounds received that day? Stand up there and be a little closer to the Commission.

A These two right of my back, of my right side and the other just right of my side below the ribs.

Q Below the lower ribs?

A ☒ They are bayonet wounds.

COLONEL STICKNEY: When you say "these two," do you mean, "too" or "two"?

A ☒ Yes, these two but this one is not, this is not a bayonet wound.

MR. AITKEN: Witness indicates a small scar about a half inch long of a different nature from the wounds which he said is not a bayonet wound.

Q Now, on the arm?

A This is also caused by a bayonet thrust.

MR. AITKEN: He indicates a scar in the inside of the right arm just above the elbow.

Q Now, you have some scars other than those?

A There are some here on my legs.

Q Do you have some on your legs?

A No, there is none on my legs only on my thighs.

MR. AITKEN: On the thigh. Do you wish to have him exhibit those?

COLONEL STICKNEY: I think not.

Q How many?

A You mean on my thighs?

Q Yes.

A ☒ On my thighs I have two on each pierced through.

Q Are they on the outside of the thigh or are they in the groin?

A Some are in the veins, where there are veins.

MR. AITKEN: Indicating the outside of the thigh. Your witness.

CROSS-EXAMINATION

BY MR. WARD:

Q Márcos, you stated that on the 5th of December, 1944, you were at the house of Letosa, is that correct?

A ✓ Yes.

Q And five soldiers came to the door, is that right?

A Yes.

Q Was that the first time you saw any soldiers that day?

A Yes, they were the first five, but there were other soldiers from the far distance.

Q Were any of these five officers?

A Yes, it was Captain Nanjo.

Q Did you recognize any of the four?

A I cannot recognize those other four.

Q Had you been to the garrison at Boroboro many times before this date?

A I used to be there at the station of San Francisco, because they also frequent that place.

Q Then, you had seen most of the soldiers stationed at the Boroboro garrison, is that not so?

A I could not see most of them there in that place.

Q Did you recognize any of the four of the soldiers with Captain Nanjo as soldiers coming from the Boroboro

garrison?

A I cannot tell whether those four companions of his were soldiers from the Boroboro garrison or from other places.

Q When you were taken outside the house, you stated you saw approximately 100 soldiers, is that not correct?

A I did not say that.

Q How many soldiers were outside when you started to carry your coconuts?

A I observed only five Japanese soldiers who approached us, including Captain Nanjo, but the other soldiers behind him I did not notice how many.

Q Were they all walking toward Boroboro as well?

A Yes.

Q Approximately how many were there?

A I cannot say because I could not even look at them.

Q There were not 100, is that correct?

A I cannot say.

Q When you arrived at Boroboro, where did you take the coconuts?

A We brought them to the Boroboro garrison.

Q Where was Captain Nanjo then?

A He was there inside the garrison.

Q You stayed at Boroboro until sunset, is that not right?

A Yes.

Q How far is it from Boroboro to Granada?

A I cannot calculate.

garrison?

A I cannot tell whether those four companions of his were soldiers from the Boroboro garrison or from other places.

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A We brought them to the Boroboro garrison.

Q Where was Captain Nanjo then?

A He was there inside the garrison.

Q You stayed at Boroboro until sunset, is that not right?

A Yes.

Q How far is it from Boroboro to Granada?

A I cannot calculate.

Q Approximately how far?

A I cannot give the calculation because from that place to another is far.

Q How far is it from Boroboro to hacienda Francisco?

A Those two are near each other.

Q How near -- state the kilometers, please.

A As a matter of fact, Boroboro is a part of hacienda Francisco. If it was called Boroboro, it was for the reason that the water from that place bubbles.

Q Where did you stay in Boroboro from the time you took the coconuts to the garrison until sunset?

A We stayed there inside the garrison at Boroboro.

Q Upon leaving Boroboro at sunset, how many soldiers went with you?

A There were many.

Q About how many?

A I could not count them because they were in groups scattered on the way and in the coconut plantations. However, those five were with us, including that Captain Nanjo.

Q How many groups of soldiers were there?

A I cannot tell how many groups there were.

Q How many soldiers in a group?

A I cannot tell that.

Q Would you say there were more or less than 100 Japanese soldiers walking to Granada at that time?

A I think about less than that.

Q Would you say there were more than eighty, or less than eighty?

A I cannot tell because I could not count them.

Q Did you see any other officers around Boroboro when you left or on your way to Granada?

A The one I saw was Captain Nanjo.

Q Did you see any other officers than Captain Nanjo at Boroboro or on the trip from Boroboro to Granada?

A I have not seen other officers except Captain Nanjo.

Q Do you know any other Japanese officers other than Captain Nanjo?

A I do not know any other officers.

Q Do you know the names of any other officers other than Captain Nanjo?

A No.

Q Of these groups of soldiers going toward Granada, what was the position of your group?

A At that time when we were going to Granada we were walking one after another and I and my companions were about in the middle of them.

Q Do you mean to state your group of soldiers was a middle group in these various squads or platoons that were walking to Granada, is that correct?

A Yes.

Q How many soldiers were in your group?

A Captain Nanjo and four others were following us.

Q You state you were walking single file?

A Yes.

Q Were you able to look around to see the relative positions of the other members of your group?

A We could not even look around, because if you walk slowly they would even kick you.

Q From the walk from Boroboro to Granada you say you did not look around at all, is that correct?

A That is correct.

Q When the soldiers pulled Letosa out of the line, did the rest of the squad, including yourself and the four others, keep marching?

A We were ordered to stop at a certain distance.

Q Do you know any other Japanese officers other than Captain Nanjo?

A I do not know any other officers.

Q Do you know the names of any other officers other than Captain Nanjo?

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Q When the soldiers pulled Letosa out of the line, did the rest of the squad, including yourself and the four others, keep marching?

A We were ordered to stop at a certain distance.

Q What distance?

A Very near.

Q How far from Hacienda Francisco were you at that point?

A We were in Hacienda Francisco when they pulled out Dionisio Letosa.

Q You state you were very near to Letosa when the squad was ordered to halt. Will you point out that distance? Please indicate by the surrounding buildings or scenery.

A My distance from Letosa was about the place from where I am now up to the place where Captain Nanjo is sitting.

(Indicated by the witness)

MR. WARD: Ten feet, counsel?

MR. AITKEN: Ten feet.

Q Is that while you were in the line or after he had been pulled out of the line?

A At the time that he was pulled away, that was the distance between us.

Q At that time you stated that the squad kept marching for a short distance and then was ordered to halt, is that not correct?

A Yes.

Q How far were you from Letosa when the squad was ordered to halt?

A When we were ordered to stop, my distance from Letosa was about from this place where I sit now up to that place behind the guard (indicating the guard at the door of the courtroom).

Q How far behind the guard?

A May I go there to indicate?

Q Yes.

A (Witness walks to position immediately outside of the doorway.) This place about.

MR. WARD: Thirty-five or forty feet?

MR. AITKEN: Twenty-two feet, about.

MR. WARD: Twenty-two feet is satisfactory. That is all right.

Q Were you allowed to watch Letosa at that time or did the guards make you keep your face to the front?

A They did not order us to turn our backs. We only stood there.

Q On your way from Boroboro garrison, what was the position of each of the six of you in this single file line?

A As we were walking in a single file between each of my companions was a soldier under the group of Captain Nanjo.

Q Of the six of you, what positions did you have? Start with the first and work back.

A I did not observe at that time in what place I was, because we were thinking what would happen to us.

Q Where was Letosa?

A He was ahead of me.

Q Was he the first man in the line?

A I could not tell because between each of us was a Japanese soldier and you could not look before you or observe at all because the soldiers would get angry.

Q Were you with Letosa all the time you and he were at the garrison of Boroboro?

A While we were at Boroboro, all of us six were together.

Q Were you all tied at that time?

A Only Dionisio Letosa was having his hands tied. The rest of us five were having our hands free -- were not tied.

Q When the six of you first reached Boroboro was Letosa taken into the garrison commander's office -- that is, Captain Nanjo's?

A No.

Q Did Letosa carry coconuts from Granada to Boroboro?

A Yes.

Q When were Letosa's hands tied?

A ✓ When we arrived at the garrison, that was the time when they tied the hands of Letosa.

Q While you were in Granada at Letosa's house, did the Japanese search the house?

A They did not search the house. They only ordered us to go down.

Q Were you searched at that time, personally?

A No.

Q Did you see if Letosa was searched?

A No.

Q While you were on the way from Granada to Boroboro, did you see Letosa try to escape?

A We did not go from Granada, but we **went** from Granada to Boroboro because we were at Hacienda Carmen at that time when we were arrested.

Q ✓ From Hacienda Carmen to Boroboro, while Letosa was carrying coconuts, did he try to escape?

A ✓ I did not notice.

Q Did he tell you he tried to escape?

A No.

Q Do you know why Letosa's hands were tied and yours were not?

A I do not, because we were carrying coconuts going to Boroboro. At the time we were walking going to Boroboro, Dionisio was also carrying coconuts and he was only tied when we reached Boroboro.

A No.

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A I do not, because we were carrying coconuts going to Boroboro. At the time we were walking going to Boroboro, Dionisio was also carrying coconuts and he was only tied when we reached Boroboro.

Q Do you understand any Japanese?

A No.

Q Were you with Letosa when his hands were tied?

A We were following each other.

Q When you and Letosa reached Boroboro you put down your coconuts -- did you not -- and Letosa's hands were tied -- is that not correct?

A Yes.

Q Did the Japanese state why they were tying his hands?

A They did not tell us.

Q Letosa was a guerrilla, was he not?

A No.

Q Was he a member of the USAFFE?

A No.

Q Were any of you guerrillas?

A Nobody.

Q Were any of you members of the USAFFE?

A I say, "No."

Q How well did you know Letosa?

A Very long ago, when we were small, we were already friends.

Q Do you know his wife?

A I know very well his wife.

Q Did not his wife register him as a guerrilla to get money from the Philippines for that reason?

A No.

Q Do you know for a fact she did not?

A As far as I know, we were only in the same hacienda. I do not know anything about what she did.

COLONEL STICKNEY: Will the reporter read that answer?

(The reporter read the answer.)

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Belaong so informed the witness.)

Q What time of day did you reach Bacolod?

A It was already night time.

Q Do you know where the Bacolod-Murcia sugar factory is?

A I know the place.

Q Were you taken there?

A We were not brought to the central.

Q Do you know where the Kempei-Tai office is?

A I don't know where it is.

Q Did you later know where the office of the Kempei-Tai was?

A No.

Q Do you know if the soldiers of the Kempei-Tai wear special insignia on their uniforms to show that they are a member of that organization?

A I do not know these Kempei-Tai, what they are, or how they look.

Q The place where you were kept that night you stated was a cell, was it not?

A Yes.

Q Was there a guard placed on the cell?

A Yes, there was.

Q Was that one of the guards that accompanied you from Boroboro to Bacolod?

A I cannot say whether he was one of those who

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A I cannot say whether he was one of those who

accompanied us from Boroboro to Bacoled because we were already inside the cell.

Q You did not recognize him?

A I did not recognize him.

Q Did any soldiers of the Japanese see you that night?

A No.

Q Did they see you the next day?

A Do you mean the Japanese soldiers?

Q Yes.

A That following morning there was always a Japanese guard at the door of the cell.

Q Was that guard one of the men that brought you from Boroboro?

A I cannot say because I did not recognize him.

Q Were you interrogated that day?

A No.

Q Were you interrogated the next?

A No, not at all.

Q Were any of your group questioned?

A No.

Q When did the soldiers come on the third day?

A Do you mean the Japanese soldiers?

Q That is correct, were there any other soldiers there?

A Japanese soldiers were the ones who came to our cell.

Q Were there any Filipino-Japanese constabulary present at that time?

A I do not know. I do not know those people. I do not even recognize those kinds of units.

Q Do you know where the civilian prison is in Bacolod?

COLONEL STICKNEY: Will the reporter read that question?

(Last question read by reporter.)

A I do not know because I had not been in that place before.

Q On the third day, you state the Japanese soldiers came to your cell, is that right?

A Yes, on the third day they took us out.

Q They tied your hands with rope, is that correct?

A Yes.

Q And then they tied each of you together, is that right?

A Yes, together.

Q Was this last rope that tied each of you together around your waists, necks, or where?

A (Indicating) First they tied each of us with our hands at our backs. And then when each of us was already tied, they also passed through another rope connecting each one of us, and that rope was passing between our arm pits, and from one end of the rope this Japanese soldier was leading us.

Q Did you recognize any of the soldiers that tied you?

A I knew Captain Nanjo.

Q Did Captain Nanjo tie you?

A Only his soldiers tied us because they were under his orders with the sign, as I understood, to tie each one

of us by the hands.

Q You state Captain Nanjo came down to your cell that evening, is that correct?

A No.

Q Was Captain Nanjo with the soldiers that tied you at that time?

A He was there present.

Q How many soldiers were with him?

A There was one soldier who was tying us, while Captain Nanjo was there present.

Q Were there any other soldiers in the room?

A Outside there were many soldiers.

Q Were there any other soldiers in the cell?

A There were no other soldiers there except ourselves, Filipino prisoners, who were tied.

Q Were you blindfolded?

A No.

Q Were any of you blindfolded?

A While there at Bacclod not one of us was blindfolded.

Q How big was this building in which you were incarcerated in a cell?

A I do not know how big the building was because we were sitting in the cell and you could not move. Any movement whatsoever that you made, the Japanese soldier would point at us with his bayonet.

Q Was it light or dark in the cell?

A At daytime it was clear.

Q How far from this building was the pit to which you were led?

A The distance of the cell to that pit was about a distance from where I am now up to that building where a ladder is standing.

MR. WARD: That is the same one we estimated the other day, Mr. Aitken.

MR. AITKEN: We estimated it as 120 yards, but it does not seem that long. One hundred twenty-five yards is good enough for me.

MR. WARD: We stipulate one hundred twenty-five yards as the distance.

Q Have you ever been back to the place where that pit was dug?

A Since the time we were brought there we did not go back.

Q Have you ever been back to the place where this pit was dug and you were wounded?

A No.

Q At this time you do not know where that place is, is that correct?

A No, I do not know.

Q Do you know where the vicinity of the church owned by Dr. Toming is?

A Yes, I know the place even if I have to go there now.

Q Where in the city of Bacolod is this church?

A I think that is under the jurisdiction of the municipality of Bacolod, because that church is south of the central.

Q Is that away from the central part of Bacolod City, from the Bacolod-Murcia Milling Co.?

A It is far from the central.

Q It is on the outskirts of Bacolod, is it not?

A I cannot tell.

Q Do you know where the provincial jail of Bacolod is?

A I do not know that.

Q Do you know where the high school of Bacolod is?

A I do not know where that place is. All I know was that there is a church.

Q Do you know where the Lupit River is?

A I have not been in that place.

Q Do you know where the market place in Bacolod City is?

A Yes.

A It is far from the central.

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Q Do you know where the market place in Bacolod City is?

A Yes.

Q As you go north from the market place you turn to the right or eastward and you go to Granada, is that not right?

A From the market place, as you go north, you will again turn towards the east.

Q Was the church you are referring to north or south of the market place?

A That is far south of the market place.

Q Did you know where the Japanese Air Corps were stationed in Bacolod at that time?

A I do not know that.

Q Is there a river near this church?

A There is a river still south of that church.

Q While you were being led to this pit, how many soldiers were around you?

A I cannot tell how many of them, because I did not count them.

Q Were there many?

A There were many.

Q Do you know how many men there are in a platoon -- a Japanese platoon?

A I do not know.

Q Would you say there were more than one hundred soldiers there?

A I cannot tell if there were around that figure, because I did not count them.

Q But there were very many soldiers, is that right?

A Yes, there were many.

Q Were you led directly to the pit?

A They brought us on the way to the pit.

Q Were the soldiers you saw about you in military formation?

A I did not observe, because they would hurt you if you look around.

Q From the cell to the pit you did not look around, is that correct?

A No.

Q You were led by one soldier, is that right?

A I did not observe whether it was one soldier who led us.

Q Were you followed by any soldiers?

A Yes, we were followed by the soldiers and there were others on our sides while we were marching to the pit.

Q Did you hear the sounds of a drum at that time?

A No, I did not hear.

Q You were lined up facing this pit -- were you not?

A We were lined with our backs toward the pit.

Q What happened to the soldiers that were following you and those that were on each side of you as you were marching towards that pit? Where did they go?

A They were on the plaza.

Q How far from you as you were lined up by the pit were these soldiers that brought you there?

A Those soldiers were near us.

Q And the rest of the soldiers you state were around this area that you estimate to be more or less than one hundred -- where were they?

A They were some distance from us, as we were near the pit.

Q Was the officer that ordered the execution in front of you or behind you?

A He was in front of us.

Q How far?

A He was near. From this place where we were lined up, the distance was about from where I am up to that place (indicating) to where Mr. Ward is sitting.

A MR. WARD: About seven or eight feet, correct?

MR. AITKEN: To you? Yes, eight feet.

MR. WARD: Eight feet.

Q Did that officer have his sword in its sheath or in his hand?

A His saber at that time was still in its sheath, but he was holding it with both his hands.

Q Was that officer at your right or at your left?

A He was at my right.

Q How tall a man was he?

A Who?

Q The officer that had both hands on the sword?

Indicate on me.

A (Indicating) I think that officer is only as tall as the mouth of Mr. Ward, or even lower than that.

MR. WARD: Five feet? I am five feet ten.

MR. AITKEN: I would say about five feet two.

MR. WARD: Five feet two.

Q Did you notice whether or not he was wearing glasses?

A Yes, he was using glasses.

Q Now, when he first said, "kura," did he pull his sword out, or did he not?

A He only had his hands on his sword.

Q He never pulled his sword out of its sheath, is that correct?

A No.

Q At the time this officer had his hands on the sword and shouted "kura," where was Captain Nanjo?

✓ A There, right there. He was himself the one who shouted "kura."

Q Did you see any other officers at that time?

A I did not see any other officers.

Q You stated you know Captain Nanjo very well, is that not so?

A Yes, I know him well because I could often see him at the station and he was the one who arrested us at that time.

Q At the station -- you mean the station at Boroboro?

A Yes, and also at Bacolod, when he killed my companions.

Q Did you go to Boroboro often during the year of 1944?

A Yes.

Q Did you ever receive a paper from Captain Nanjo stating that you were a civilian, to identify you?

A Yes.

Q Was that the first time you ever saw Captain Nanjo?

A Yes.

Q What month in 1944 did you receive that pass?

A I cannot recall what month was that.

Q Was it around the middle of the year, June, or the latter part of the year, September?

A I cannot calculate because I do not know even how to read.

Q Before Captain Nanjo came to the Boroboro garrison there was a sergeant major in charge there, is that not so?

✓ A I cannot tell whether there was a sergeant major in charge of that place before he was there. Only I was able to know him when he was there, that he was Captain Nanjo in charge of that garrison.

Q Calling to your attention to January 1944, that is, the beginning of 1944, about how long after that time did you receive your pass from Captain Nanjo?

A I already told you that I do not know, because I do not know even how to read, so I could not calculate.

Q What day were you captured by Captain Nanjo?

A That day we were captured I could not even recall.

Q Was it in 1944 or 1945?

A What do you mean?

Q Which year was it -- 1944 or 1945?

A It was 1944 when we were arrested.

Q Was it the middle of 1944, the beginning of 1944, or the end of 1944?

A I cannot tell. I say I cannot read, but I only could remember that we were arrested in 1944.

Q How long before you were arrested -- in months, moons, or in whatever method you calculate time -- did you receive this pass from Captain Nanjo?

A I can only remember that I received my pass from him in 1944 and after only I received my pass that I know we were arrested.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

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A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the interpreters, and reporter are all present in court,

Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Belaong so reminded the witness.)

The witness was under cross-examination at the close of the last session.

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MARCOS DE TOMAS

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Boleong and Genoves:

CROSS-EXAMINATION (Cont'd)

BY MR. WARD:

Q You stated you knew that the time you were arrested was in 1944, is that correct?

A Yes.

Q How do you know it was in 1944?

A I could remember it because that month was the last part of the year.

Q But you don't remember what part of the year you received your pass from Captain Hanjo, is that correct?

A I could not tell what month when I received my pass, but only I could remember that it was in 1944.

Q I am not asking you for the month, I merely want to know if you know what part of the year you received your pass?

A I cannot tell.

Q Do you know a Colonel Yamaguchi?

A No.

Q Have you ever heard of that name before?

MR. AITKEN: Objected to as being immaterial.

MR. WARD: I believe it is quite material.

Colonel Yamaguchi was supposed to have been, or is alleged, to have been the colonel at the head of the Battalion for this whole area.

MR. AITKEN: Well, that is true but what is the materiality here?

MR. WARD: All right, this from the testimony, was evidently an organized execution. The defendant obviously is merely a second lieutenant. From the status of the description of the area, as the Commission has maps of the city, they are on notice or if they require us to we can put a person that knows the city on the stand to testify to the various parts of the city. But as maps are usually before the Commission as Mr. Aitken has already pointed out at previous times, the place described by the witness is the headquarters of the Kempei Tai -- that is the only military place around that area. Thus, as Colonel Yamaguchi was the head of this area, under the section of Land Warfare Rules as to mitigating evidence showing Superior Orders, it would be obviously material testimony.

COLONEL STICKNEY: The objection is sustained.

Q Did you have to make a statement to Captain Nanjo at the time you received your pass sometime in 1944?

A No.

Q You merely came to Boroboro and were issued a pass without any investigation, is that so?

MR. AITKEN: That is objected to as immaterial also. I don't know what all of this extraneous matter has to do with this case.

MR. WARD: It is showing bias by the witness of the defendant which might color his testimony, if there was any previous trouble between this witness and the defendant it certainly is material to both the prosecution and the defense, and the Commission to know of such trouble,

and that was the background of my question.

MR. AITKEN: There is nothing in the record, if the Commission please, that shows that there was any trouble between these people at all.

MR. WARD: That is perfectly correct. There is never any previous hard feelings shown by the witness against the defendant as put forth by the prosecution. Always such evidence is defense and brought up by cross-examination by the defense. Within any rules of evidence you are allowed to show bias and in this instance any previous dispute between the witness and the defendant. That is part of the basic part of cross-examination.

MR. AITKEN: There is no rule at all that prevents a cross-examiner from showing whether or not a witness is biased one way or the other. But such questions as this and such a line of questions as this will not show any foundation of bias. If it had the slightest indication that way, I would not be wasting the time here objecting to it.

MR. WARD: If counsel will have the last question read to him, I think it will be obvious. The question asked merely a simple fact.

COLONEL STICKNEY: Will the reporter read the last question, please?

THE REPORTER: "You merely came to Boroboro and were issued a pass without any investigation, is that so?" ..

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and that was the background of my question.

MR. AITKEN: There is nothing in the record, if the Commission please, that shows that there was any trouble between these people at all.

MR. WARD: That is perfectly correct. There is never any previous hard feelings shown by the witness against the defendant as put forth by the prosecution. Always such evidence is defense and brought up by cross-examination by the defense. Within any rules of evidence you are allowed to show bias and in this instance any previous dispute between the witness and the defendant. That is part of the basic part of cross-examination.

MR. AITKEN: There is no rule at all that prevents a cross-examiner from showing whether or not a witness is biased one way or the other. But such questions as this and such a line of questions as this will not show any foundation of bias. If it had the slightest indication that way, I would not be wasting the time here objecting to it.

MR. WARD: If counsel will have the last question read to him, I think it will be obvious. The question asked merely a simple fact.

COLONEL STICKNEY: Will the reporter read the last question, please?

THE REPORTER: "You merely came to Boroboro and were issued a pass without any investigation, is that so?" ..

MR. WARD: And this is obviously the

preliminary question finding out what that investigation consisted of, if there were an argument in getting the pass, and a further question will follow if he did not have a subsequent run in with Captain Nanjo at that time.

COLONEL STICKNEY: The objection is sustained.

Q Prior to the time you were arrested in Hacienda Carmen, had you ever had any trouble with Captain Nanjo?

A No, I did not even speak to him because we were afraid of him.

MR. AIKEN: Afraid of him?

INTERPRETER BELAONG: "We were afraid of him."

Q Why were you afraid of Captain Nanjo?

A Because if they go in those places they arrest people.

Q What places are you referring to?

A I mean in our evacuation place at Hacienda Carmen.

Q It is a fact, is it not, that your evacuation place in Hacienda Carmen was a meeting place for guerrillas, is that not so?

A I do not know about that.

Q Why do you state then that the Japanese arrest those people found in your evacuation place?

A Because when they arrived in that place they arrested us.

Q Had you ever seen others arrested in your evacuation place?

A No other except those companions of mine when we were arrested because we were together then.

Q Then why do you state that the Japanese arrested people found in your evacuation place if they never arrested anyone there previously?

A Because I could say that, because they arrested me.

Q Do you know Gil Tanique?

A I do not know him in our place.

Q Do you know Gil Tanique?

A In our place we do not know him, because he does not live there.

Q Do you know where he lives?

A I don't know where he lives.

Q Did you come from Negros to Manila on a boat September 7th, of this year?

A I cannot tell when it was when I was brought here to Manila, because a certain man only approached us and then told us that we would go and we were immediately brought here.

Q You came by airplane?

A We took an airplane.

Q While you were in Manila did you meet another witness against Captain Nanjo named Gil Tanique?

✓ A I knew Gil Tanique only, I think, about a day or two ago.

Q After the Americans landed in Negros were you contacted by an investigator and told to relate what happened to you when you were picked up, arrested that is, by the Japanese?

A No.

Q Did you ever sign a piece of paper stating the experience, or experiences, you suffered at the hands of the Japanese in 1944?

✓ A Yes.

Q When was that?

A I told him what happened to me in 1944, but the time when I signed that paper I cannot tell when that was.

Q Did that man show you any pictures of Japanese when you told him about your experience?

A No.

Q Did he show you a picture of Captain Nanjo at that time?

A No.

Q Did he describe Captain Nanjo to you?

A No.

Q Did you describe Captain Nanjo to him?

A I did not to him.

Q Since the time the investigator spoke to you when you signed that piece of paper, have you ever been shown a picture of Captain Nanjo?

A No, I said that he had not shown me any picture.

Q Since that time when you were wounded, have you ever seen Captain Nanjo until you appeared in court?

A Yes.

Q Where did you see him?

A Only here.

Q Was Captain Nanjo in court or was he walking to court over by that building (referring to the High Commissioner's Residence)?

A I saw him only in this place. I did not see him in that Commissioner's building.

Q Then, no one has ever pointed Captain Nanjo out to you since the time you were wounded, is that correct, until you were in this court right now?

A Nobody pointed him to me.

MR. WARD: That is all.

COLONEL STICKNEY: Redirect examination?

MR. AITKEN: No redirect examination.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL MacKINTOSH:

Q When you regained consciousness in the hole after having been bayoneted, do you remember seeing the bodies of any of your companions in that hole?

A At the time when I got out from the hole I had not very completely regained consciousness. My head at that time was still dizzy and I did not notice my other companions.

Q Were the bodies of your companions placed in the hole before you were bayoneted?

A At the time that each of my companions was bayoneted, another soldier pushed him into the hole, while the others who were still alive they were also bayoneted, and when they were killed they were also pushed into the hole. At that time Captain Nanjo was there present looking.

BY COLONEL STICKNEY:

Q Have you ever seen any of your companions alive since that day that they were bayoneted?

A ✓ I have not seen any of them alive.

BY MAJOR HERR:

Q Will you describe the killing of Letosa a little bit more fully than you did under examination?

A You mean when they killed Dionisio Letosa?

Q Yes. How did that killing take place?

A Captain Nanjo hacked him with a saber and Letosa was hit at the back of the neck (indicating).

Q Was he killed with the one blow?

A Immediately after he was hacked by that one blow he was still able to say in Visayan, "Aragoy nagatamsak." That means in English, telling the pain that he had received: "The wounds goes through me."

Q Are you sure that he was dead when you left the spot?

A I am sure he was killed.

Q And the Japanese soldiers just left him there without burying him?

A He was left without being buried by them.

Q Then, when you were taken with your five companions to the point of execution, I believe you were all tied together, besides having your hands tied at the back. Was that rope that

Q Were the bodies of your companions placed in the hole before you were bayoneted?

A At the time that each of my companions was bayoneted, another soldier pushed him into the hole, while the others who were still alive they were also bayoneted, and when they were killed they were also pushed into the hole. At that time Captain Nanjo was there present looking.

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A I am sure he was killed.

Q And the Japanese soldiers just left him there without burying him?

A He was left without being buried by them.

Q Then, when you were taken with your five companions to the point of execution, I believe you were all tied together, besides having your hands tied at the back. Was that rope that

held you together untied before you were bayoneted?

A Do you mean at the time when we were still at the hacienda together with Dionisio, or when we were already at the cell?

Q Yes. The last day when you were bayoneted.

A You mean to say at the time when we were killed?

Q Yes, when you were taken from the cell.

A The rope that tied us five together was not taken off from us when we were bayoneted.

Q In other words, you were all tied together when your companions were killed, prior to your being bayoneted?

A That is right. The rope was not taken.

Q When you regained consciousness, after being bayoneted, was the rope still tying you to your companion on your right?

A When I regained consciousness, that rope which tied me together with my companions was no longer tied to me.

Q How long was the rope between each of your companions and yourself? What length?

A We were tied close together, ~~because the~~ when we were marched through to the hole we were only straggling. That means to say one could not walk in the ordinary way -- otherwise, he would step on the other's foot.

Q Then, when the first companion on the extreme right was bayoneted and his body was thrown into the trench, with the length of the rope being so short, how was it possible for the next man not to be dragged into the hole with him?

A That is true. That one would hang or be immediately near the other because of the short distance, so that immediately the man who was pushed to the hole will be very, very near to the edge of the hole.

BY MAJOR FRITZ:

Q At the time you were made prisoner by the Japanese, were you told why you were being arrested?

A They did not tell us.

Q At any time between then and the time that you were bayoneted, were you told or did you hear anyone say why you were being apprehended and punished?

A Nobody.

BY COLONEL STICKNEY:

Q Was there at any time, to your knowledge, any trial reported to either you or any of your companions?

A No.

Q Do you know why Letosa was pulled out of the column at the particular time he was and hacked?

A I do not know the cause.

COLONEL STICKNEY: Anything further from the defense?

MR. WARD: Yes.

FURTHER CROSS-EXAMINATION

BY MR. WARD:

Q You stated Letosa was pulled from the line and taken over to a tree, is that not correct?

A I mean beside the coconut tree.

Q Had Letosa tried to escape just before they pulled him over to the tree?

MR. AITKEN: Just a moment. That is objected to as having been asked and answered a number of times already.

COLONEL STICKNEY: Any reply?

MR. WARD: I withdraw the question.

BY MAJOR FRITZ:

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Q At any time between then and the time that you were bayoneted, were you told or did you hear anyone say why you were being apprehended and punished?

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COLONEL STICKNEY: Any reply?

MR. WARD: I withdraw the question.

Q Did Captain Nanjo drag Letosa to the tree?

A The soldier of Captain Nanjo.

Q Did Captain Nanjo precede or follow the soldier and Letosa to the tree?

A At the time when Letosa was pulled out from our line, he was already immediately near that soldier who pulled him out and I did not observe just in what position or where was Captain Nanjo, but only the next thing I knew was that he went there to that place of execution.

Q Letosa's hands were tied behind his back, were they not?

A Yes.

Q You saw Captain Nanjo hack Letosa once, is that correct?

A Yes, because Dionisio had uttered a word of pain.

Q Then the line was told to go on again, is that right?

A Yes.

Q Did Captain Nanjo join the line immediately?

A Yes.

Q Did the other soldiers?

A Yes, all of them.

Q Did you see more than one blow struck?

A Yes, I saw him when he was hacked.

Q Did you see more than one blow struck?

A I saw him when ~~he~~ hacked Letosa and the blow delivered to him was more than one.

Q How many?

A You mean the number of times he was hacked?

Q That is right.

A I think he was hacked three times.

Q Was Letosa standing or kneeling when the first blow was struck?

Q Did Captain Nanjo drag Letosa to the tree?

A The soldier of Captain Nanjo.

Q Did Captain Nanjo precede or follow the soldier and Letosa to the tree?

A At the time when Letosa was pulled out from our line, he was already immediately near that soldier who pulled him out and I did not observe just in what position or where was Captain Nanjo, but only the next thing I knew was that he went there to that place of execution.

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Q How many?

A You mean the number of times he was hacked?

Q That is right.

A I think he was hacked three times.

Q Was Letosa standing or kneeling when the first blow was struck?

A He was squatting.

Q Where was he when the second and third blows were struck?

A On the second blow he was in the same position.

Q And the third?

A On the third he fell.

Q After which blow did he make this statement in Visayan: "The wounds go through me" -- or whatever words you stated a few minutes ago.

A That was at the first blow.

Q Could you see Letosa at that time?

A I could see him because he was near, as I have indicated this morning, from where I sit here now up to that place (indicating).

Q Did he make any more moans after he was struck the second and third times?

A No more.

Q Were you able to see Letosa after Captain Nanjo and the other soldier left him by the tree?

A I have not seen him any more.

Q Immediately after Captain Nanjo and the soldier left Letosa by the tree, could you then see Letosa or his body?

A I could not see him any more, because we were already marching.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further?

MR. MITCHELL: No redirect examination.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

A He was squatting.

Q Where was he when the second and third blows were struck?

A On the second blow he was in the same position.

Q And the third?

A On the third he fell.

Q After which blow did he make this statement in Visayan: "The wounds go through me" -- or whatever words you stated a few minutes ago.

A That was at the first blow.

Q Could you see Letosa at that time?

A I could see him because he was near, as I have indicated this morning, from where I sit here now up to that place (indicating).

Q Did he make any more means after he was struck the second and third times?

A No more.

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MR. WARD: That is all.

COLONEL STICKNEY: Anything further?

MR. MITKIN: No redirect examination.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

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A I could not see him any more, because we were already marching.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further?

MR. WITKIN: No redirect examination.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

M. WARD: The witness is permanently excused,
as far as the defense is concerned.

MR. AITKEN: Send in Leopoldo Agravante.

COLONEL STICKNEY: The Commission will take a
ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

LEOPOLDO AGRAVANTE

a witness for the prosecution, being first duly sworn, testified as follows through Interpreters Genoves and Belaong:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Do you talk Visayan only?

A I am going to speak in Visayan because I don't know English.

MR. AITKEN: (To Interpreter Genoves) Tell him to pay attention to the questions, answer them directly and speak up. There is nothing to be afraid of at all.

(Interpreter Genoves translated to the witness.)

MR. AITKEN: This witness is called with reference to Specification 3, in which Romana Ballesteros has already testified.

Q Will you state your name?

A Leopoldo Agravante.

Q And your age?

A Forty.

Q And where do you reside?

A Balogo.

Q What municipality?

A Town of Talisay.

Q Balogo, is it a part of Talisay or Bacolod?

A It is within the jurisdiction of Talisay.

Q Did you know, on the 21st day of December, 1944, Faustino Alindog and Ricarido Alindog?

A Yes, I knew them.

Q What relation did they bear to each other, if any?

A Ricarido Alindog was the son of Faustino Alindog.

Q And what relation, if any, did they bear to Romana Ballesteros?

A Romana Ballesteros is the wife of Faustino Alindog.

Q Now, were you present at the time those two persons were arrested on the date mentioned.

A Yes.

Q Where were you at the time, how close by, how near?

A I was near them because our houses are near each other.

Q How close to each other are your houses?

A The distance from my house to the house of Faustino Alindog was as far as the place where I am sitting to that jeep outside.

MR. AITKEN: Jeep, along side the barbed wire fence? Thirty-five yards we said before, approximately thirty-five.

MR. SCHAUER: From where to the jeep -- which jeep is that?

Q Are you referring to the jeep next to the barbed wire fence?

A I mean the jeep next to the barbed wire fence.

MR. AITKEN: Approximately thirty-five yards.

MR. SCHAUER: Yes, that would be this one, because I noticed he could not see this one. Thirty-five yards is right.

Q Were you arrested yourself, that morning?

A Yes, I was also arrested.

Q Now, who made the arrest?

A I was arrested by the soldiers of Captain Nanjo.

Q Was Captain Nanjo there?

A Yes, he was the one who arrested Faustino and Ricarido Alindog.

Q Who was arrested first, you or the Alindogs?

A The Alindogs were arrested first.

Q Where were you watching from when you saw them arrested?

A I was looking from the window of my house.

Q Now, will you explain what you saw and what happened at that time?

A On December 21, 1944, Captain Nanjo, together with his soldiers, arrested Faustino Alindog and Ricarido Alindog.

Q What time of the day was that?

A It was in the morning.

Q About what time with relation to sunrise, if you don't know otherwise?

A I think it was about five o'clock in the morning.

Q And what did you see when you saw them arrest the Alindogs?

A When they arrested the Alindogs they tied them and delivered to them blows and struck them with a butt of the rifle.

MR. AITKEN: Struck them with the back of the rifle?

INTERPRETER GENOVES: The butt of the rifle.

Q How many times did they strike them?

A I saw them strike with the butt of the rifle, and

deliver blows to them, and after that I hid.

Q Were you arrested -- were you found in your hiding place?

A Yes, I was also found.

Q At what time, with reference to the striking of the others?

A Immediately after I saw them mistreating those two there, I went to my hiding place. Immediately thereafter some Japanese soldiers entered my house and arrested me.

Q How many Japanese soldiers?

A Three Japanese arrested me.

Q What did they do or say to you, what did they do to you?

A When they found me in my hiding place they arrested me and tied my hands behind my back. Then they asked me where the soldiers were. After that they pushed me and kicked me.

Q What soldiers were they referring to?

A They referred to the soldiers, to the Filipino soldiers.

Q You mean the guerrillas or USAFFE?

A I think the USAFFE.

Q What did you tell them?

A I answered them that I did not see any.

Q Then where did they take you, if anywhere?

A They took us to the river of Matabang.

Q When you say "us" who do you mean?

A I mean I and the Alindogs and also the Japanese.

Q And who?

A The Japanese.

Q Now, before they took you from there, did you see Romana Ballesteros?

A I did not see her.

Q Now, you say they took you to Matab-ang, what is Matab-ang?

A It is a river.

Q Now, about how many Japanese took you and the Alindogs to the Matab-ang River?

A I cannot tell now, because there were very many.

Q Well, can you approximate. I don't want the exact number, but I would like to know whether there were twenty, or forty, or fifty, or one hundred.

A I cannot estimate, because there were very many.

Q In marching, were you marching on foot to the Matab-ang River?

A Yes, we walked.

Q Now, in how many bodies did you walk -- in how many groups?

A We were going not in order.

Q Were you together with the two Alindogs or were you separated?

A I was ahead of them, a little farther.

Q You were a little ahead of them, is that it?

A Yes, I was ahead of them.

Q Now, what happened when you got to the Matab-ang brook?

A When we arrived at the Matab-ang River we suddenly heard a shot. Then the Japanese who was near me ordered me to lie down.

Q Did they lie down themselves?

A Some of them lay down; some of them did not.

Q Then what took place? Describe what went on.

A When I looked back, I saw Captain Nanjo hacking Faustino Alindog.

Q What was he hacking him with?

A With a saber.

Q And did you see anything happen to Ricarido Alindog?

A I saw Ricarido Alindog lying dead.

Q Did you see what caused him to lie dead?

A What I saw was that when I looked back Captain Nanjo was hacking Faustino Alindog, while Ricarido Alindog was lying face down, dead.

Q What did you do then?

A Upon knowing what happened to the Alindogs, I lay flat to the ground. When I lay down flat I was at the very edge of the bank. Then I slipped down and made my way to

escape.

Q When you say you slid down the bank, you are referring to the bank of the Matab-ang River?

A Yes.

Q Did you see any of the Japanese soldiers using their bayonets on that occasion?

A Yes.

Q Now, after you made your escape, did you inform Romana Ballesteros of the fate of her husband and son?

A Yes.

Q Did you tell her where they were?

A Yes, I told her.

Q Did you go back with her to show her or point out the place later on?

A I was not able to go back.

MR. AITKEN: Your witness.

I will ask one further question.

Q Do you know Captain Nanjo when you see him?

A Yes.

Q Will you look around the courtroom here. See whether you see him. If you do, point him out. Touch him.

(The witness approached the table of defense counsel and tapped on shoulder.)

A This is he.

COLONEL STICKNEY: The record will show the witness placed his hand on the shoulder of the accused.

Q When did you arrive here to testify in this case? How many days ago?

A The 13th of this month -- October.

Q How many days ago?

A I came on Monday. This is the 5th day.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. SCHAUER:

Q You say you were related to Faustino Alindog and Ricarido Alindog?

A Yes.

Q And what was that relationship?

A Faustino Alindog is my older brother.

Q What did Faustino do for a living around the 21st of December, 1944?

A He was engaged in a little farming.

Q And did he do his farming near the place where he lived?

A Yes.

Q What products did he raise or cultivate?

A He raised bananas, casaba, and other tubers.

Q Did he sell any of these things?

A They only used them for their own consumption.

Q How old was Faustino?

A He was around seventy years old.

Q And how old was Ricarido?

A He was twenty-two to twenty-three years old.

Q What did Ricarido do for a living? Did he also work on the farm?

A Yes.

Q How long had he been working on the farm?

A Since the time he could work.

Q Did he work on the farm there all during the time when the Japanese were on Negros?

A Yes.

Q Didn't he fight with the guerrillas some of the time?

A No.

Q Did he belong to the USAFFE or was he connected with the USAFFE at any time?

A No, he did not.

Q Had you ever seen the person you described as Captain Nanjo before the 21st of December, 1944?

A I saw him on the 21st of December, 1944.

Q Had you ever seen him before the 21st of December, 1944?

A I saw him at the station.

Q What station?

A Railway station.

Q In what barrio or sitio?

A San Francisco, Boroboro.

Q Is that San Francisco or hacienda Francisco?

A Yes, it is hacienda.

Q You say you saw him at hacienda Francisco? How many times did you see him at hacienda Francisco?

A I saw him almost every trip of the train which passed that station.

Q Would that be more than once a week?

A Sometimes I could see him three times a week.

Q How far is the place where you live in Balogo from hacienda Francisco?

A I cannot calculate the distance.

Q When you go from your home in Balogo to hacienda Francisco, you go in a southerly direction, do you not?

A If I were going from Balogo to hacienda Francisco, I would be taking the way towards the sea.

Q When you go from Balogo to hacienda Francisco, do you go through Boroboro?

A No.

Q Do you know what year it was when you saw Captain Nanjo in Francisco for the first time?

A I do not know what year he went to that place.

Q Do you know what year it was the first time you saw him there?

A I saw him in 1944.

Q You saw him also at the garrison at Boroboro a number of times, did you not? That is, a number of times during the year 1944?

A Yes, because he was frequently at the station.

Q Captain Nanjo came to Boroboro about the middle of 1944, didn't he?

A I don't know.

Q Do you remember when you first saw him at Boroboro? Was it early in 1944 or late in 1944?

A I cannot remember what month that was. Only I remember the year. That was 1944.

Q On the morning that the Japanese arrested you, was anyone else in your house with you at that time?

A No.

Q Were you living there all alone at that time?

A Yes, I was alone.

Q And what were you doing for a living at that time?

A I was doing a little farming.

Q Was your farm right near your home?

A Yes.

Q Did Captain Nanjo come into your house when you were arrested?

A No.

Q When did you first see Captain Nanjo -- before you were arrested or after?

A I saw him when he was arresting Faustino Alindog.

Q Was it daylight at the time you were arrested?

A It was about 5 o'clock in the morning.

Q Was it daylight at that time?

A It was quite daylight because the sun was about to rise.

Q Now, as you looked out of your window and saw Ricarido and Faustino Alindog being arrested, could you at that time see Captain Nanjo?

A Yes, I saw him.

Q Did Captain Nanjo say anything at that time?

A No, I did not hear.

Q When you left your house, that is, after the Japanese had already tied your hands behind your back, did Captain Nanjo come up to where you were?

A Yes, he came.

Q Did Captain Nanjo say anything to you?

A No.

Q At any time from when you were arrested in your house to the time that you escaped from the Japanese later that day, did Captain Nanjo talk to you?

A No, he did not.

Q Did he talk to either Ricarido or Faustino Alindog at any time that day?

A That day he didn't speak any to either Faustino Alindog or Ricarido Alindog.

Q Did any of the Japanese soldiers talk to you at all that day?

A At that time when he arrested me he talked to me.

Q Is that the time they asked you where the soldiers -- that is, the guerrillas -- had gone?

A Yes, that is what he asked me.

Q Was that the only thing that any of the Japanese soldiers ever said to you or asked you that day?

A Yes.

Q Did the Japanese soldiers accuse Ricarido Alindog of being a member of the guerrillas or of the USAFFE?

A Yes.

Q Was that while you were still near your home or after you had started to march away?

A That was yet at the house when they accused him.

Q About how many soldiers were there at that time?

A I could not say the number, but I say there were many.

Q Would you say there were more than one hundred?

A No.

Q How many Japanese officers did you see that day?

A I didn't see any Japanese officer. He was the only one.

Q As you walked along, going to the Matab-ang River, were there Japanese soldiers in front of you and behind you?

A Yes.

Q How far ahead of Faustino and Ricarido Alindog were you as you were marching along?

A (Indicating) While we were walking towards the Matab-ang River, I was ahead of them. The distance between me and Ricarido and Faustino Alindog was as the distance between the place where I am sitting now to that cement pavement, that barbed wire fence.

MR. AITKEN: Thirty-five yards.

MR. SCHAUER: Thirty-five yards.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 0830 hours, on the 19th of October.

(The Commission adjourned at 1505 hours, 18 October 1946, to reconvene at 0830 hours, 19 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

VOLUME XII

PAGES 730 - 775, INCL.

Def. evid. P. 758

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pp. 7 1

DATE: 19 October 1946

COPY NO. 1

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO,

Dated 30 November 1946.

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UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 3
High Commissioner's Residence
Manila, P. I.
19 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. MITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHLIER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd LT. HAKUZO NITTA	)	
Tec 3 TAKEO S. ITO	)	Japanese
2nd LT. TAICHI NISHIHARA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 19 October 1946, in Court No. 3, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the defense counsel, the defendant and his personal interpreter, the assigned interpreters, the reporter, are present in court.

I understand there is a new interpreter in Japanese assigned to us, and I was to swear him in this morning, but he has not shown up yet, so I will do it when he comes.

Will you remind the witness that he is proceeding under the oath previously administered?

(Interpreter Belaong so reminded the witness.)

At the close of the last session, I believe Leopoldo Agravante was under cross-examination.

LEOPOLDO AGRAVANTE

a witness for the prosecution, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

CROSS-EXAMINATION (Continued)

BY MR. SCHAUER:

Q At the time you were arrested, did the Japanese soldiers take you over to Alindog's house?

A No more.

Q When you went out of your house after the Japanese soldiers had arrested you, did you notice whether or not either Faustino or Ricarido Alindog were still in their house?

A They were already in front of my house.

Q When you first saw them after the Japanese had arrested you, were their hands tied?

A Yes.

Q And by that you mean they were tied behind their backs?

A Yes, behind their backs.

Q Do you know Romano Ballesteros?

MR. AITKEN: The name is "Romana."

A I know of Romana Ballesteros.

Q Well, you have known her for quite some time, have you not?

A Yes.

Q When you got out of your house on this particular day that you were arrested, wasn't she there?

A Who?

Q Romana Ballesteros?

A I did not see her, only I saw the Japanese.

Q Were Faustino and Ricarido near you after the Japanese arrested you and you went out of your house?

A I was a little distance from them.

Q And at the time you saw Faustino and Ricarido, you did not see Romana Ballesteros then?

A I did not see her.

Q When was the first time that day that you saw her?

A To whom do you refer?

Q Romana Ballesteros.

A It was about 4 o'clock in the afternoon when I first saw her that day after I have come from my escape.

Q Did the Japanese soldiers have you carry anything for them after they arrested you?

A No.

Q And neither Ricarido or Faustino carried anything for them, then, did they?

A They didn't carry for them anything.

Q As you were walking along, was Captain Nanjo in front of you or behind you?

A He was behind me.

Q Were there any Japanese soldiers between you and either Faustino or Ricarido Alindog as you were walking along?

A Yes, there were.

Q Were Faustino and Ricarido walking together?

A They were walking one after another.

Q And how many Japanese soldiers were between you and Faustino and Ricarido as you were walking along?

A I did not notice because I was ahead of those two.

Q Were there few or many?

A You mean Japanese?

Q Yes.

A There were many.

Q Were there as many as a hundred?

A I cannot say because I don't know how to calculate.

Q Did you notice whether or not there were any soldiers marching along behind Faustino and Ricarido?

A I didn't see.

Q About how many soldiers were marching along ahead of you?

A I did not count, because I was afraid.

Q Were there few or many?

A There were many.

Q Were there as many as a hundred?

A I did not count. I don't know how to calculate.

MR. AITKEN: What was that?

A. I did not count. I don't know how to calculate.

COLONEL STICKNEY: Will the reporter read that answer, please?

(Answer read by the reporter.)

Q About how far is it from your house to the place near the river where you escaped from the Japanese?

A I cannot say because I don't know how to calculate the distance.

Q In going from your house in Balogo did you pass through any barrio on your way to the Matab-ang River?

A No.

Q Could you estimate how many kilometers it was from your house to the place where you escaped from the Japanese?

A I cannot calculate.

Q About how long did it take you to walk from your house to the place where you escaped from the Japanese?

A I don't know how to calculate, neither to make an estimate.

Q You testified yesterday that the Japanese soldiers arrested you about 5 o'clock in the morning. How long was it from the time you were arrested until you started to walk toward the Matab-ang River?

A Immediately after we had been arrested we were taken to the Matab-ang River.

Q About what time was it when you arrived at the Matab-ang River?

A I can't give an estimate because at that time I was frightened.

Q Would you say it was noon day yet when you arrived at the Matab-ang River?

A I said I cannot remember because at that time I was very much frightened.

Q It was still daylight though, was it not?

A Yes, it was still daylight.

Q How wide was this road or trail that you walked along going to the Matab-ang River?

A I think the width of the road where we passed from my house to the Matab-ang River was from the distance where I am sitting now to that edge of the board.

MR. AITKEN: Six feet, I suppose.

MR. SCHAUER: Approximately six feet.

Q Do automobiles use that road?

A No.

Q It is just used for walking and also driving animals such as carabao, is that right?

A Yes.

Q Do you know in which direction you walked when you went from your house to the Matab-ang River or brook?

A We were going northward.

Q That would be toward the mountains then, rather than toward the sea, is that right?

A I mean we took first the direction towards the sea, and then northward.

Q Did you cross the road which goes from Granada to Concepcion?

A No, we didn't cross that road.

Q Had you actually come to the bank of the river at the time when you escaped from the Japanese?

A I was right at the edge of the bank when I escaped.

Q Does this trail on which you were walking follow along the bank of the river?

A The road was crossing this river towards the mountains.

Q Had you actually crossed the river?

A You mean at the time when I escaped?

Q Yes.

A When I escaped I first stayed down the river. When they were gone I managed to make my way home.

Q While you were still marching along with the Japanese soldiers did you cross the river?

A Yes.

Q About how wide is that river?

A (Indicating) The width of that river is as the distance from the place where I am sitting now to that third post, counting from the post at the back of the extreme member of the Commission.

MR. SCHAUER: Thirty-five feet?

MR. AITKEN: This platform has been estimated at fourteen feet. I would say it is about twice the platform --

twenty-eight feet.

MR. SCHAUER: About twenty-eight feet.

COLONEL STICKNEY: Could I ask the purpose of the morning's cross-examination? We have been going half an hour.

MR. SCHAUER: I am coming to that now. I will find out the relative distances between this witness and the other witnesses at the time the parties became separated. I want to find out the location. I don't believe that was made very clear to me on direct examination.

COLONEL STICKNEY: You are trying to find possible discrepancies between the testimony of the present witness and the testimony of Romana Ballesteros?

MR. SCHAUER: No, that is not correct, because Romana Ballesteros did not testify to any of the facts surrounding any alleged killing, because, as I recall her testimony, the last she saw of anything was when her husband and son were led away from their residence by the Japanese. I believe that is correct, is it not?

MR. AITKEN: That is what she testified to. This is the only witness to the actual killing.

MR. SCHAUER: That is right.

COLONEL STICKNEY: What discrepancies do you mean to bring out with this line of questioning?

MR. SCHAUER: There wouldn't be any discrepancies. I would like to know more about the location where the alleged killing took place. As I recall, there was quite a bit of commotion there at that time. I can't recall how much he testified to, but I would like to clear it in my mind.

COLONEL STICKNEY: It appears to me we are now piling up the record with a lot of questions and answers that are of no particular value to the trial.

MR. SCHAUER: I will try to hurry this witness along, as I don't want to prolong it, certainly, any longer than the time to get to our first recess.

Q Did the guerrilla forces start to attack the Japanese after you crossed that river?

A No.

Q After you crossed the river, did you hear gunfire?

A Yes.

Q And about how far had you gone after crossing the river when you heard this gunfire?

A I think at the time I heard the shot I was at a distance from the place where I am sitting now to that barbed wire fence. (Indicating)

MR. SCHAUER: Thirty-five yards.

MR. AITKEN: Thirty-five yards.

Q Was there a great deal of firing?

A There was only one.

Q Now, at the time that you heard this shot, did the Japanese give any orders?

A Yes.

Q And they gave the order to take cover, is that right?

A Yes.

Q Now, did you go to the right or to the left of the trail when you ran away to take cover?

A I went to the right.

Q Did you notice whether or not Faustino and Ricardo also went to the right, or did they go to the left?

A They didn't go anywhere. They were just at a little distance behind me with some Japanese.

Q They went off of the trail though, did they not?

A No, they were there.

Q You were the only one of the three of you then that went off of the trail to hide?

A Yes.

Q How far off of the trail were you when you turned around and saw Faustino and Ricarido?

A I can't tell how far I was from the trail, but I say that at that time I was at the edge of the bank of the river.

Q When you were at the edge of the bank of the river did you turn around and see Faustino and Ricarido?

A Yes, at the time when I heard the shot. then I turned back.

Q Were they still on the trail?

A Yes.

Q Were they together?

A Yes, they were together.

Q How far were you from them at that time?

A At the time I turned back and saw them, I was at a distance as the distance from the place where I am sitting now to that barbed wire fence. (Indicating

MR. AITKEN: Thirty-five yards.

MR. SCHAUER: Thirty-five yards.

Q Was there much grass where you were hiding?

A Yes.

Q How tall was the grass?

A The height of the grass was as this! (Indicating)

MR. AITKEN: Four feet.

MR. SCHAUER: Four feet.

Q Were there a lot of trees around there?

A There were shrubs around.

Q Were there any trees?

A There were some trees scattered around.

Q Did you lie down flat on the ground after you got to the bank of the river?

A Yes.

Q And how long did you continue to lie flat on the ground?

A Since the time I lay flat up to the time around four o'clock in the afternoon when I left the place after the Japanese had gone.

Q Did you lie flat all the time until the Japanese had gone?

A Yes.

Q And while you were lying flat, you saw Captain Nanjo hacking Faustino with a saber, is that right?

A No.

Q What did you do when you saw him hacking Faustino with a saber?

A I saw him hacking Faustino at the time when I heard the shots, and I also looked back. That was the time when I saw him hacking Faustino with a saber.

Q Had you already got to the place by the bank of the river where you hid at the time when you say you saw Captain Nanjo hacking Faustino with a saber?

A I was still on the road and when I looked back.

Q You were still on the trail at the time when you saw Captain Nanjo hacking Faustino with a saber, is that right?

A Yes.

Q Did you leave the trail before or after you heard the first shot fired?

A Just after I heard the shot, that is when I left the trail and hid.

Q Did the Japanese motion to you to leave the trail after you heard the shot?

A Yes.

Q Did you see Captain Nanjo hack Faustino with a saber before or after you heard the shot?

A At the time I heard the shot and then I looked back I saw Captain Nanjo hacking Faustino with his saber.

Q How many soldiers at that time were between you and Faustino?

A I didn't know because some of them were already lying flat.

Q Were there many soldiers?

A Yes, many Japanese soldiers.

Q And they were all on the trail, were they not?

A Yes.

Q Did you see Captain Nanjo's face at that time -- that is at the time when you say you saw him hacking Faustino with a saber?

A Yes.

Q Was Captain Nanjo facing you?

A He was facing the person he was hacking. That is why I saw his face.

Q Did you see Faustino's face?

A No.

Q Did Faustino have his back to you?

A I saw his side view.

Q What did you do as soon as you saw Captain Nanjo hack Faustino with a saber?

A Just after I saw Captain Nanjo hacking Faustino, I immediately jumped to the bank.

Q And it was at that time when you went off of the trail, is that right?

A Yes.

Q How many blows did you see Captain Nanjo strike with the saber?

A I saw him strike once.

Q That was the only blow that you ever saw Captain Nanjo strike, is that not correct?

A Yes.

Q You did not then see him hack Ricardo with a sword, did you?

A No.

Q On February 28, 1946, you talked to an investigator at Bacolod, did you not?

A I did, at Bacolod.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Genoves so reminded the witness.)

MR. AITKEN: At this period, I think it would be a good time to swear that new interpreter in, as I asked to do.

Q Are you 2nd Lieutenant Nisihara?

A Yes.

MR. AITKEN: Will you come up and be sworn?

(2nd Lieutenant Taichi Nisihara was duly sworn as an official court interpreter.)

MR. AITKEN: Let the record show that the new Japanese interpreter named Taichi Nishihara was assigned to this case and sworn in.

Q When you talked to that investigator in Bacolod, you told him what happened on the 21st of December 1944, did you not?

A Yes.

Q Didn't you tell him at that time that you saw Lieutenant Nanjo himself slash both Faustino and Ricardo Alindog with the sword?

A Yes.

Q Isn't it a fact that you did not see him slash either Faustino or Ricardo with the sword?

A I said I saw.

Q Isn't it a fact that Captain Nanjo wasn't even there that day?

A It was true that he was there.

Q Isn't it a fact that someone merely told you that he hacked Faustino and Ricarido with a sword?

A I saw it personally.

Q You knew that person you described as Captain Nanjo was in charge of the garrison at Boroboro there at that time, did you not?

A That is true.

Q And isn't it true that you just assumed that because he was in charge of the troops there at that time, that therefore he was responsible for the deaths of Faustino and Ricarido?

A I was not told, but I am sure that he was the one who killed Ricarido and Faustino Alindog because I saw him.

Q Yesterday, when I asked you a question as to whether Captain Nanjo came to Boroboro during the early or middle or late part of 1944, you said you did not know or could not remember, is that right?

A Yes.

Q Do you remember talking to Investigator Curry in Bacolod on the 10th of October of this year?

A I cannot remember.

Q You say you do not remember talking to a Mr. Curry, Leo. B. Curry?

MR. AITKEN: Just a moment. I will object to the question unless a foundation is laid showing the time, place, and those present.

MR. SCHAUER: I will rephrase the question.

Q Didn't a Mr. Curry talk to you on the 10th day of October, 1946, at the Hacienda Romana of the Barrio of Granada?

MR. AITKEN: Who was present?

MR. SCHAUER: Well, we will get that in the next question?

MR. AITKEN: I object to the question unless the proper foundation is laid, since this is a foundation for a subsequent impeachment. The witness is entitled to have all the circumstances presented.

MR. SCHAUER: I can't do it all in one question.

MR. AITKEN: Oh yes, in the presence of so and so.

MR. SCHAUER: Will you repeat that question, please?

(Last question read by reporter.)

COLONEL STICKNEY: I believe there is an objection.

MR. AITKEN: There is an objection as I have stated.

MR. SCHAUER: Well, I have asked him whether or not he talked to Mr. Curry. Counsel says proper foundation has not been laid. I can't ask all the questions to lay a foundation in the first question. He wants to know who was present. I can ask the witness who was present, or was so and so present after he tells me he did have the conversation.

MR. AITKEN: There is a customary way of laying foundation for impeachment testimony, and that is to ask the witness if at such and such a time, at such and such a place, in the presence of such and such people, did he have a conversation with so and so. And until that is laid there is not proper foundation for the question and it is immaterial.

MR. SCHAUER: I feel that the question is a proper question.

COLONEL STICKNEY: The objection is sustained.

Q Calling your attention to the 10th day of October, 1946, did you have a conversation with Mr. Leo. B. Curry at the Hacienda Romana of the Barrio of Granada, at which Luis M. Lopez, Mr. Curry, and yourself were present?

A If the place is at Hacienda Romana, I remember it.

Q And at that time, Mr. Curry asked of you certain questions and you answered those questions, did you not?

A Yes.

Q Didn't you tell him at that time that Lieutenant Nanjo came to Boroboro in the middle of 1944?

A I only stated that I saw him in 1944.

Q Didn't you tell him that Lieutenant Nanjo came to Boroboro in the middle of 1944?

A No.

Q You did not tell him that?

A No.

MR. SCHAUER: That is all, no further questions.

COLONEL STICKNEY: Any redirect?

MR. AITKEN: No redirect.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q When the Alindogs were arrested, did you state that someone used a rifle butt on them?

A Yes.

Q Can you tell who used the rifle butt?

A Yes.

Q Who was it?

A Captain Nanjo ordered the soldiers to strike them with the rifle butt.

COLONEL STICKNEY: Strike them with the rifle butts?

INTERPRETER GENOVES: Strike them with rifle butts.

Q How many soldiers did you see strike Faustino Alindog with rifle butts?

A I cannot tell, but I saw him being struck with a rifle butt at the time I looked from my window.

Q You saw one of the soldiers strike Faustino Alindog with a rifle butt at that time?

A Yes.

Q And how many blows did he strike on Faustino?

A I did not count how many soldiers or how many strokes were made, but I saw soldiers and Captain Nanjo himself striking with the rifle butt, Faustino Alindog.

Q Did you see more than one blow struck on Faustino Alindog with the rifle butt?

A I cannot tell how many blows were made on Faustino Alindog, because one after another struck him with the rifle butt.

Q You did see more than one man strike him, then, with a rifle butt?

A I said I did not count how many of them struck Faustino Alindog, because at that time they were surrounding Faustino Alindog.

Q Did you see anyone strike Faustino Alindog with a rifle butt?

A Yes, I saw Captain Nanjo strike Faustino Alindog.

Q Where on Faustino Alindog's body did you see Captain Nanjo strike him with a rifle butt?

A Here, on the breast (indicating).

Q Did you see Captain Nanjo strike Faustino with a rifle butt more than once?

A That was the only time I saw him strike Faustino Alindog.

Q Did you see anyone else strike Faustino Alindog with a rifle butt?

A Yes.

Q Where did that blow strike, what part of the body did that blow strike?

A I saw him struck on the forehead, on the breast, and at the back.

Q Now, did you see anyone strike Ricarido Alindog with a rifle butt?

A I did not see Ricarido Alindog struck with a rifle butt, because he was behind some Japanese.

Q Now, from your house, did you hear Captain Nanjo tell his soldiers to strike these people with rifle butts?

A Yes.

Q What language did Captain Nanjo use?

A He uttered this word "Kura".

INTERPRETER GENOVES: We are giving this word "kura" as to the best of our knowledge how to spell it.

Q Is that a Visayan word?

A I don't know, but it seems to me it is their own language because he shouted that word.

Q Have you heard the word before?

A Yes.

Q Now, you stated, I believe, that you saw Captain Nanjo hack Faustino Alindog, is that correct?

A Yes, I said that I saw him hack Faustino Alindog near the river.

Q And what part of Faustino's body did he hack?

A Here at the back of the neck (indicating).

Q Did you state yesterday that you saw these Japs use their bayonets?

A Yes.

Q On whom did they use their bayonets?

A I don't know to whom they used the bayonets, but I saw that Faustino Alindog was hacked with a saber.

Q Well, did you see these Japs use their bayonets?

A I did not see them using bayonets to kill people, but I saw them with bayonets.

Q You state now you did not see them use their bayonets, is that correct?

A I did not see.

Q Do you remember what you said yesterday about their bayonets?

A I don't remember telling that they used their bayonets to stab.

Q Do you remember anything you said yesterday about the soldiers using their bayonets for any purpose?

A You mean Japanese soldiers?

Q Yes.

A I said yesterday they had with them bayonets, but I did not say they used it to stab people.

Q Do you remember what you did say about their bayonets yesterday?

A I cannot remember.

Q To your knowledge, was either your brother, Faustino, or his son, Ricarido, given a trial?

A What do you mean by trial?

Q Do you know what a trial is?

A I cannot understand what "trial" means.

BY COLONEL MacKINTOSH:

Q When you first saw Captain Nanjo from the window of your house, while Faustino Alindog was being captured, was he carrying a rifle?

A No.

Q Did he take a rifle from one of his soldiers?

A Yes, he took it from one of his soldiers and struck Faustino Alindog.

COLONEL STICKNEY: Any other questions by the defense?

FURTHER CROSS-EXAMINATION

BY MR. SCHAUFR:

Q Do you know whether or not just before you saw this person you say was Captain Nanjo hack Faustino Alindog with a sword, Faustino and Ricarido had tried to escape?

A No.

Q Were there any other officers in that group of soldiers besides Captain Nanjo?

A No.

MR. SCHAUFF: That is all. No further questions.

MR. AITKEN: No redirect examination.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

MR. AITKEN: At this time I wish to state that every effort has been made by the prosecution to produce personally before the Court the witness, Lauro Mariano, and no contact of any kind can be made with him. We don't know where he is or what has become of him, although we have sent investigators to locate him. I was informed first that he had come up here with the witnesses and we thought he was in the camp, but the witnesses tell me he was never out there in that camp and further search for him has produced nothing. So I wish to offer the statement from Lauro Mariano as Prosecution's Exhibit No. 5.

MR. WARD: At this time defense objects, mainly based on the fact of lack of foundation. Counsel has testified before satisfactorily there has been no witness on the stand to establish the foundation. There are two ways of doing it: for one thing, he can bring up the investigator that states he cannot find Lauro Mariano and testify that he has been to the house and the vicinity, and so forth, that he is dead or without the vicinity. Secondly, he has a witness at this time, or had, that he could put on the stand that knew the man

personally who could testify that he is dead or sick. This is the second time now -- the first one as to Leopoldo Arravante, the last witness, where, according to Mr. Aitken's information on the floor, that the man was not able to be contacted and we find from the witness the man was right there at home the whole time. We are not doubting Mr. Aitken's word. We are merely stating that if he wishes to get on the stand and allow us to cross-examine him as to the efforts being made, he may do that, if he wishes. Otherwise, he may put in a correct foundation. He, himself, a minute ago criticized our method of impeachment as to the persons present, et cetera, stating that he wishes strict confirmation to the admittance of any document. At this time we also wish strict adherence to the rules of laying down a proper foundation for any piece of paper or we have the right to cross-examine the witness.

MR. AITKEN: The SC/F rules provide that if a witness cannot be produced his statement is usable as evidence in the case. Hundreds and hundreds of them are being used in the Tokyo trials right along. It is not as common down here, because live witnesses are more easily procured, but the practice up there and the practices even down here are that when the counsel for the government makes a statement before the Court and shows what efforts they have made to get him and he can't be had, that that is a sufficient statement and the Commission is authorized to accept the statement and does it as a matter of practice. It is not a part of the

practice, nor is it required, that counsel get on the stand as a witness, although if defense counsel wants that, I am perfectly willing to submit myself under oath to any cross-examination he might want to impose under the permission of the Commission.

COLONEL STICKNEY: Any further argument?

MR. WARD: At this time we are not doubting counsel's word. We are merely trying to protect the defendant as of record. Counsel may put himself on the stand, as I mentioned. In addition, we are not finding fault with the SCAP rules; we recognize them. But the SCAP rules have also been held that when there is a witness in the vicinity -- and Negros has been considered within this jurisdictional area -- at that time the witness is supposed to be on the stand. Otherwise, you are to lay a foundation and admit your paper. All we want is a proper foundation and the paper can be admitted.

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: I offer the original of the affidavit of Lauro Mariano, duly sworn to, taken on the 27th day of February, 1946, through Interpreter Manuel Javellana, and before James B. Miner, 2nd Lieutenant, INF, investigating officer, War Crimes Investigating Detachment, with the proper certificate attached thereto. I ask that the original be received as Prosecution's Exhibit No. 5 and that I be allowed to withdraw the same and substitute certified copies.

COLONEL STICKNEY: Before we come to that, I would like to ask if you have put into the record the

practice, nor is it required, that counsel get on the stand as a witness, although if defense counsel wants that, I am perfectly willing to submit myself under oath to any cross-examination he might want to impose under the permission of the Commission.

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COLONEL STICKNEY: Before we come to that, I would like to ask if you have put into the record the

introduction of Prosecution's Exhibit No. 4.

MR. AITKEN: I am about to put that in now. It is in the record for identification, and inasmuch as this was testimony in the case, I thought perhaps the more logical order would be to get rid of testimony then put in this paper that is Exhibit No. 4. I will offer that next.

MR. WARD: Upon this paper being admitted by the Commission, if that is the Commission's wish, we waive reading of the affidavit at this time. We have a copy of it.

MR. AITKEN: A copy has been served on the defense counsel a day or so ago, anticipating --

COLONEL STICKNEY: There would seem to be no reason for reading it into the record. It is going to be appended to today's volume.

MR. WARD: I would like the record to be corrected in what instance the affidavit was given to the defense: yesterday -- which necessarily implies we have had no opportunity to check on the fact whether this witness was or was not available, as counsel has stated.

COLONEL STICKNEY: The document in question is admitted as Prosecution's Exhibit No. 5. ✓

(Prosecution's Exhibit No. 5
received in evidence.)

MR. AITKEN: And it is considered as read into the record.

COLONEL STICKNEY: It is not considered as read into the record, but it is understood that it will be appended to the record and will be read by all members

as evidence.

MR. AITKEN: Yes. I merely mentioned that because there is a difference in the procedure here and that which I have been accustomed to, where we read these things into the record as offered. I don't see where there is any advantage there, but that was the procedure.

COLONEL STICKNEY: It will save time.

MR. AITKEN: We offer at this time also Prosecution's Exhibit No. 4, already marked as Exhibit No. 4 for identification, it being a part of the testimony of Jonota. I will ask for permission to withdraw this original for the time being, in order to make the necessary duplications for the purposes of the record.

COLONEL STICKNEY: There being no objection, the sketch under consideration is accepted as Prosecution's Exhibit No. 4. ✓

(Prosecution's Exhibit No. 4 received in evidence.)

MR. AITKEN: The prosecution rests. ✓

MR. WARD: We open the defense. The defense wishes to make a short statement as to what it wishes to prove. It should be especially helpful as the witnesses will be put on out of order, due to the difficulties in time and the fact that our investigation as of today has not yet been completed.

COLONEL STICKNEY: Will you tell us how long your opening statement will be?

MR. WARD: It shouldn't take much more than five minutes, maybe less.

COLONEL STICKNEY: Very well.

OPENING STATEMENT BY THE DEFENSE

MR. WARD: It is an extemporaneous one -- just the facts that I have in mind.

We expect the testimony to show that Second Lieutenant Masao Nanjo was sent to Boreboro garrison, or in this instance, a small reservoir at Boreboro, to guard the water supply in that area. That there was great guerrilla activity in this area. That he was not present at that garrison as its garrison commander during January 1944, specifically January 16, as shown in Specification 1. That Lieutenant Nanjo received a wound in the leg in the city of Bago, which is below Bacolod City, on or about December 2nd or 3rd. That this was a serious leg injury, which injured the bone. He was taken immediately to the Bacolod hospital, where he was then kept until approximately March 20, 1945, at which time the wounded men in the Bacolod dispensary were sent to the hills. We expect to show that before April 1945, specifically April 4, as set forth in the 5th Specification, that not only Lieutenant Nanjo, but the whole Takahashi unit, of which Lieutenant Nanjo is a member, was already in the hills, and that the last of the soldiers of the Japanese were being sent to the mountains, due to the fact that the American invasion had already commenced and that Bacolod City was being taken. I think that is sufficient.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

OPENING STATEMENT BY THE DEFENSE

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We expect the testimony to show that Second Lieutenant Masao Nanjo was sent to Boreboro garrison, or in this instance, a small reservoir at Boreboro, to guard the water supply in that area. That there was great guerrilla activity in this area. That he was not present at that garrison as its garrison commander during January 1944, specifically January 16, as shown in Specification 1. That Lieutenant Nanjo received a wound in the leg in the city of Bago, which is below Bacoled City, on or about December 2nd or 3rd. That this was a serious leg injury, which injured the bone. He was taken immediately to the Bacoled hospital, where he was then kept until approximately March 20, 1945, at which time the wounded men in the Bacoled dispensary were sent to the hills. We expect to show that before April 1945, specifically April 4, as set forth in the 5th Specification, that not only Lieutenant Nanjo, but the whole Takahashi unit, of which Lieutenant Nanjo is a member, was already in the hills, and that the rest of the soldiers of the Japanese were being sent to the mountains, due to the fact that the American invasion had already commenced and that Bacoled City was being taken. I think that is sufficient.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. WARD: To continue, for just a second, and state what the defense expects to show, there will be several witnesses that will not relate directly to these counts. Such as the first witness we are putting on the stand, Dolores Banas. The testimony is used to impeach Mrs. Purificacion Salon, a former witness, as to the date of the happening of the event. We will have three Japanese that will show that they were walking along by the High Commissioner's Residence and that all of the witnesses were present, and the lieutenant was pointed out. This, of course, does not relate to the actual facts, merely as to the reliability of the witnesses. The rest of the witness' testimony will be related to the facts. The first witness will be Dolores Banas. This witness speaks English very well.

DOLORES BANAS

a witness for the defense, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WARD:

Q Your name is Dolores Banas, is that correct?

A Yes.

Q And you live at 30 J Ruiz?

COLONEL STICKNEY: Is the reporter getting the answers? I do not seem to hear them.

Q And that is at San Juan, Rizal, is that correct?

A Yes.

Q Calling your attention --

MR. AITKEN: I did not catch the address.

MR. WARD: 30 J Ruiz, San Juan, Rizal.

COLONEL STICKNEY: I would like the reporter to read the three answers. I haven't heard a word yet. I have heard the questions fine, but I am unable to hear the answers.

(Desired portion read by reporter.)

Q Calling your attention to the 16th day of October, 1946, when I, Mr. Ward, called at your office at the OCCW, which is where you work, is that not correct?

A Yes.

Q And you had a witness, Primitiva Casabuena -- I wish to correct the former statement. At this time I had the wrong witness. It is Primitiva Casabuena that was called before you, and you acted as interpreter, is that not correct?

A Yes.

Q Can you recall what Primitiva Casabuena stated as she entered into your office, and into our presence?

A She said that she wished to correct the death of her son. Instead of 1945 it was in 1944.

Q And at that time had I asked her a question?

A Not yet.

MR. WARD: You may cross-examine.

CROSS-EXAMINATION

BY MR. AITKEN:

Q Where were you at the time?

A At the OCCW.

Q Was that the office in the main building where the war witnesses register?

A Yes.

Q Do you talk Visayan?

A Yes, I am Visayan.

Q You are Visayan, Ilongo Visayan?

A Yes.

Q Who was with Primitiva Casabuena when she called, stopped at your office?

A She was alone when she entered the office.

Q Nobody was with her at all?

A No one.

Q And she just walked into the office?

A Yes.

Q And made this voluntary statement to you?

A She was called by Mr. Ward.

COLONEL STICKNEY: I did not hear the answer.

MR. WARD: She was called by Mr. Ward.

Q You mean that Mr. Ward was in the office first and called her in?

A Yes.

Q And did he tell you that he wanted you to interpret?

A He asked me to interpret for him.

Q Did he tell you what the interpretation was to be about?

A No.

Q Did he tell you that Primitiva Casabuena wanted to make a statement?

A No.

Q Was Primitiva Casabuena with him at the time?

A No, Mr. Ward went to the office alone.

Q Then, how did Primitiva Casabuena come into the office?

A He asked for Primitiva Casabuena, so one of the employees called her.

Q And then he spoke to her?

A He asked her to sit down.

Q Yes, what else did he say?

A He said, "I will ask you a few questions."

Q Yes.

A (Continued) And after that Primitiva Casabuena made some explanation, that she made a mistake in her affidavit. Instead of 1945 it was in 1944.

COLONEL STICKNEY: I would like to hear that entire answer.

(Answer read by reporter.)

MR. AITKEN: That is all.

COLONEL STICKNEY: Any redirect?

MR. WARD: Yes.

REDIRECT EXAMINATION

BY MR. WARD:

Q She was referring to the death of her son, was she not, when she made this mistake?

A Yes.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further?

MR. AITKEN: No questions.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Who spoke first, Mr. Ward or Primitiva Casabuena?

A Mr. Ward spoke first. He asked the witness to sit down.

Q Mr. Ward spoke first -- that answered my question. Now, so far as you remember, what were his exact words?

A Please sit down.

Q Is that all?

A That is all.

Q What was said next?

A Primitiva Casabuena spoke to me in Visayan. She said, "I wish to make some explanation, that I made a mistake in my affidavit. The death of my son was in 1944, instead of 1945."

Q That was the first thing she said after Mr. Ward said, "Please sit down"?

A Yes.

Q Mr. Ward at that time had not said, "I want to ask some

questions of this girl"?

A He had said.

Q He had said that?

A Yes.

Q What were his exact words, as near as you can remember?

A "Please sit down, I wish to ask you some questions,"

Q Was that all?

A That is all.

Q Did he say, "I wish to ask you some questions about the date"?

A No, sir.

Q Did he say, "I wish to ask you some questions about the death of your son"?

A No, I don't remember.

Q I did not hear you.

A I said I don't remember him saying that.

Q You don't remember him saying this. Well, all you remembered him saying is, "I wish to ask you some questions, period."

A Yes, sir.

Q There was no intimation from anyone that there was any need of changing a date at that time?

A No, sir.

COLONEL STICKNEY: Anything further?

MR. WARD: ~~One~~ further question.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q During this interview, was Primitiva Casabuena the first person I interviewed?

A Yes, she was the first to be called in.

Q And thereafter, did I interview any of the others?

A You interviewed Villas.

Q Any other?

A The next was Cesar Lamio.

Q And approximately how long did the interviews of each of these people take?

A About three minutes.

Q And my total stay in the OCCW office was approximately how long?

A Fifteen minutes.

Q And that was about what time of the day?

A You came about eleven-thirty.

MR. WARD: That is all, thank you.

FURTHER EXAMINATION BY THE COMMISSION
BY COLONEL STICKNEY:

Q I would like to ask you, after Mr. Ward began to interview Primitiva Casabuena, which as I understand, began after her comment on the dates, what was he interviewing her about?

A I did not know until I heard Primitiva Casabuena explain, because she was the first to explain. Then Mr. Ward asked her if she was sure about that date.

Q He asked her if she was sure about the date?

A Yes.

Q The question of the date seemed to be the entire reason for his interview with her, did it?

A It was the only question he asked her after that.

Q He only asked her one question in the entire interview?

A Yes.

Q And what was that question?

A "Are you sure about the date, it was 1944 instead of 1945?"

Q And what did she say?

A She said, "I am sure it was in 1944."

Q That is in answer to his question?

A Yes.

Q Did it appear strange to you that the witness came in and gave the answer to a question before the question was asked?

A She explained it before the question was asked.

Q She gave the answer before she heard the question?

MR. WARD: Objection, if I may, that was not in the direct testimony. That is assuming something. In fact there was no question ever stated. It was an explanation given. But, I, or Mr. Ward, in this instance, did not ask a question, and have her answer. Her explanation as the evidence was until this time, was an explanation. Therefore, a question by the Commission stating she was answering a question before it was asked would be improper. It is assuming something that is not in the evidence.

COLONEL STICKNEY: Do I have an answer to my question?

THE REPORTER: No.

COLONEL STICKNEY: I will withdraw my question.

Q As I understood the entire procedure, so far as primitive Casabueno was concerned, was that she was told to sit down, she said, "I want to correct the date of my son's death from 1945 to 1944." She was then asked, "Are you sure that it

was 1944?" And she replied, "Yes," and the interview was over, is that correct?

A Yes, sir.

COLONEL STICKNEY: There seems to be no other questions from the Commission.

MR. WARD: None from the defense.

MR. AITKEN: Nothing further.

COLONEL STICKNEY: The witness is excused.

(Witness excused)

ICHIRO YAMANOUYE

a witness for the defense, having been duly sworn, testified as follows through Interpreters Nishihara and Saito:

DIRECT EXAMINATION

BY MR. WARD:

Q Your full name?

A Ichiro Yamanouye.

Q Your present address?

A At the High Commissioner's Stockade.

COLONEL STICKNEY: Before we proceed, I would like to ask at this time, whether during the course of testimony from this witness it is going to be desired that he be warned that anything he says can be used against him. I don't know the situation, whether he is under charges, but if he is going to receive a warning I believe that he should receive it before any questions are asked, rather than after the defense has finished asking questions.

MR. WARD: This witness is not under charges at the present time, at least so he tells me. He has already received warning. I have already informed him of our American procedure as to self-incrimination. At that time I stated that if such questions should be asked him by the prosecution, that I would at that time object and let him know of his rights. Also, none of my questions are going to be of that character. If it is desired by the Commission that he should again be cautioned in court that is perfectly satisfactory with the defense.

COLONEL STICKNEY: If you are going to ask it at any time while he is on the stand that something be explained

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COLONEL STICKNEY: If you are going to ask it at any time while he is on the stand that something be explained

to him, I think that that something perhaps should be explained to him now.

MR. WARD: That is satisfactory, sir, although there is no reason. None of the charges or allegations against Nanjo will be brought forth at this time, nor any other by the prosecution. As to the questions by the prosecutor, it is a witness' right and often you will see another counsel sitting in court, so that if a question is asked that would incriminate him at that time he is told that he need not answer such a question and stand on his right of self-incrimination, at which time the defense, in this instance, will serve as protecting counsel.

COLONEL STICKNEY: I don't know that he has the right to have a protective counsel. I would like to ask the prosecutor if it is his idea that any explanation should be made to this witness at this time, or at any other time, during the time he is on the stand.

MR. AITKEN: I think this witness, while he is on the stand, is open to full cross-examination. It has been the policy, even in the case of the defendant in the Tokyo branch, who offers himself as a witness, to be thoroughly and fully cross-examined, not only on what has been brought out on direct examination, but on all items or all matters. I don't think that a witness who comes here has any greater right than that, and I don't think he should have the right to come into a court and testify as to certain facts and then when he is being cross-examined he will say, "No, I won't answer those facts."

MR. WARD: As to any related matter, counsel is correct except that at any time any person under American jurisprudence can refuse to answer because of the right of self-incrimination. I do not know what they allow in Tokyo, but so far as these courts have been conducted that rule has been strictly adhered to, and it is a national right of any person under --

COLONEL STICKNEY: There is no distinction between this witness and the thirteen that have preceded him, is that correct?

MR. WARD: That is correct.

COLONEL STICKNEY: Then let's proceed.

MR. WARD: Satisfactory.

Q Were you a member of the Imperial Japanese Army?

A Yes.

Q What was your rank on or about the month of April, 1945?

A First Lieutenant, Army.

Q And under whose command?

A I was under Company Commander Okamoto.

MR. AITKEN: Yokamoto?

INTERPRETER SAITO: Okamoto.

Q And where were you stationed at that time?

A After the Americans had landed we did not garrison at any particular spot, but we were on the move.

Q You were in Occidental Negros in the Philippine Islands, is that correct?

A It is west of Negros.

Q Prior to the months of April, were you stationed near Bacolod?

A Prior to the landing of the American troops I was at the Bago area, at the Mining Garrison Unit.

MR. AITKEN: What was that word?

INTERPRETER SAITO: Mining, spelled M-i-n-i-n-g.

A (Continued) But, normally it is called Mao Garrison Unit.

INTERPRETER SAITO: M-a-o is the approximate spelling.

COLONEL STICKNEY: That is not Ma-ao, is it?

INTERPRETER NISHIHARA: It could be.

INTERPRETER SAITO: That is the interpreter's approximate spelling.

COLONEL STICKNEY: I see a place on my map Ma-ao, I wonder if that is the place.

A I only know that it is commonly called the Mao Garrison Unit.

Q Can you tell the court the approximate date of the American landing on the Negros Island, west side?

A Twenty-ninth of March.

Q 1945?

A Yes.

Q About when did they take the city of Bacolod?

A I do not know the date of the occupation of Bacolod by the American troops because I was at Bago where we had a skirmish with the American armored cars.

Q On or about April 3, did your company have occasion to retreat to the Negros hinterland or mountains?

A Early on the morning of the 31st of March we reached

Granada and then together with the unit headquarters we proceeded through Boroboro, then northward, and later toward the east. I do not remember the direction very well, because it was a night march. On the morning of 3d of April we rested temporarily by a small stream. At about twelve at night, or one or two in the morning, of the 3d of April I believe we reached the positions of the Takahashi Unit.

Q Do you know whether your unit was near the last of the Japanese to retreat to the mountains?

MR. AITKEN: I am going to object to that question as leading.

MR. WARD: He may know whether or not they did.

MR. AITKEN: Whether it was the last to leave ---

MR. WARD: I said, "whether or not it was near the last --"

MR. AITKEN: That doesn't cure it. It assumes they were the last. He can answer "yes" or "no", in which case it is a leading question.

MR. WARD: There are a lot of questions that can be answered "yes" or "no" and not be leading. If counsel can think of any other way to frame that question, I will respect counsel's advice.

MR. AITKEN: "Which company do you know was the last to leave on the retreat?"

MR. WARD: If the answer should happen to be "no" ----

MR. AITKEN: He can tell you what company. He can't say "yes" or "no." "Which company was the last to retreat to the mountains?"

MR. WARD: That is not what I wish to bring out. That would not answer my question.

MR. AITKEN: If the Commission please ---

MR. WARD: I wish to know if there were any more Japanese units after this man's unit took to the mountains. If there is any other way to phrase this question at all -- whether or not he knows if there were any others -- I don't know any other way. The question does not call for a "yes"

or a "no" answer. It is certainly not leading -- to his knowledge, if they were near the last.

MR. AITKEN: As framed, the question contains within it the germ of the answer: "Do you know whether your company was the last to leave for the mountains?" As a matter of fact, I don't think it says, "Do you know." Will you read the last question, please?

(The reporter read the question.)

MR. AITKEN: That is all right. The question, to elicit what he wants to know, should be: "What company do you know was the last to leave for the mountains?" Then there is no suggestion of an answer in that. This suggests an answer, that you want the witness to say, "Yes, my company was one of the last to leave for the mountains."

COLONEL STICKNEY: Objection is sustained.

Q Do you know if any company succeeded your company to the hills?

A When we reached the position approximately one kilometer from Boroboro, the Boroboro water shed was already in the hands of the Americans. I remember the situation well and I can say there were no units after us.

MR. WARD: You may cross-examine, Mr. Aitken.

CROSS-EXAMINATION

BY MR. AITKEN:

Q When did you arrive in Occidental Negros?

A Do you mean East Negros?

Q Negros Occidental -- West Negros.

A I recall it was about the 6th of January, 1943.

Q And were you stationed at Bago?

MR. WARD: Objection. The 6th of January, 1943, is completely immaterial to the count. I let the last question go, because it is a part of our records as to the movements of the Japanese Army. Counsel at this time can limit his cross-examination either to direct examination, which it should be limited to, or related subjects thereto. Anything immaterial is obviously a fishing expedition on this witness, who is willing to testify to the facts I asked relating to a certain period of time. Anything prior thereto is completely immaterial to this case. The Specification covered at this time is merely our fifth Specification and thus any question on the rest is immaterial.

MR. AITKEN: I am entitled to test the knowledge, the memory, the movements of this witness. He has opened it up and is subject to full cross-examination along those lines.

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: Then, at this time, I wish to tell the witness that any questions of this nature or a similar nature that are going to locate his movements or what he did at a time prior to which he testified under direct examination, he may refuse to answer, because he may be incriminating himself. This witness does not know if Charges are going to be put against him or not. Counsel is using unfair tactics and using these tactics when it is completely immaterial in this case. At this time the witness has the right to be told that he need

not answer these questions unless they relate to this case.

COLONEL STICKNEY: I believe this witness has been told of his rights.

MR. WARD: That is correct. I told him at the time that if questions came up I would warn him in court from time to time.

COLONEL STICKNEY: I see no right for you to have to warn him in court from time to time.

MR. WARD: That is a right and we may object at any time on this nature. That is a right he has and it has been recognized all through these War Crimes Trials that when he is being questioned about his movements, something completely extraneous to the facts he is testifying to, his rights are to be warned of those facts. And you have many of our cases over here where the other attorney sits in court and objects strenuously and is sustained when a question is asked that may incriminate the witness and he tells the witness at that time that such a question may incriminate him.

COLONEL STICKNEY: I do not know of any right that this witness has to be cautioned each time a question is asked, that in the opinion of the defense counsel he need not answer the question. If there is a doubt as to whether or not this witness has been given a statement of what his rights are, it might be well to tell him of his rights once. But it is not the right of a witness to be told by counsel, "You need not answer this -- you need not answer that -- be careful about this, they are getting you in a trap." There is no such right in any

of the many Commissions I have sat on during the last year here.

MR. WARD: I know not of the rules of the Commission the last year here. I know such is the right of any person in the United States. I have used that right, myself. At this time, with the Commission's indulgence, I would like the opportunity of telling this witness, either off or on the record, I care not which, as to his rights, or what he may or may not answer.

COLONEL STICKNEY: You have told him off the record, have you not?

MR. WARD: I have told him at the time the question came up I would inform him of his rights.

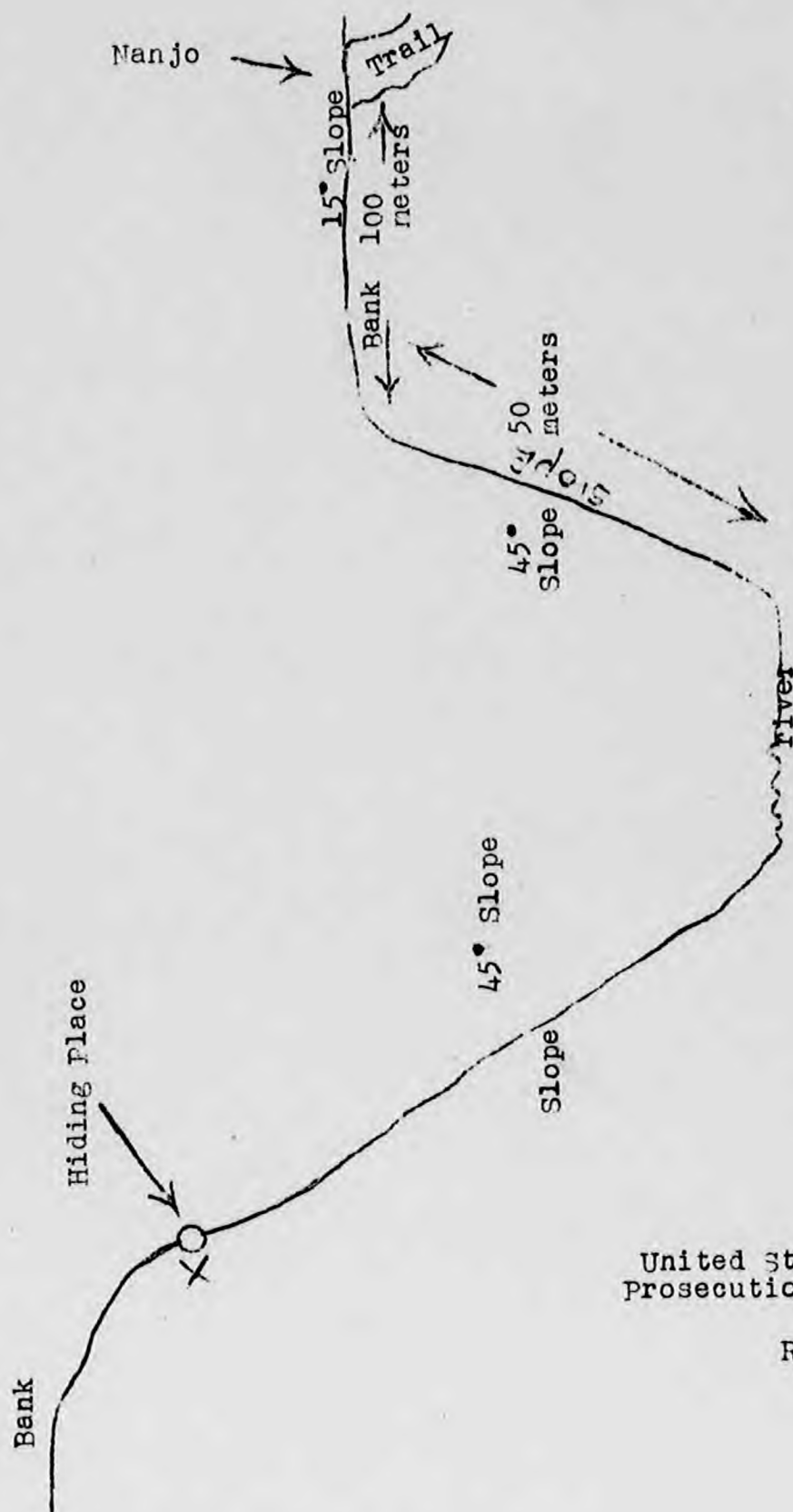
COLONEL STICKNEY: Will you now inform him on the record that you will not so inform him from time to time as questions come up. You have given him his warning once and for all.

MR. WARD: At this time I would like to have this witness taken off the stand, and I notice it is twenty-five after eleven, time for adjournment, that I may fully inform this witness of his rights.

COLONEL STICKNEY: It is most unwise for you to tell this man off the stand things -- to give him promises which are beyond your power to carry out. The rights, if any, had better be explained in open court and no promises made that you will act as defense counsel for this man or for any other witness. They are supposed to take care of themselves, just as the twelve witnesses for the prosecution took care of themselves.

The Commission will adjourn and will reconvene on the 21st of October at 0830 hours.

(The Commission adjourned at 1120 hours, to reconvene at 0830 hours, 21 October 1946.)



Prosecution's
Exhibit 4
For Identification

United States vs Nanjo
Prosecution Exhibit No 4

Received Oct. 19, 1946

A CERTIFIED TRUE COPY:

E. K. Lorentzen
E. K. LORENTZEN
Chief, Administration Div.

R E S T R I C T E D

Lauro MARIANO, after having been duly sworn, testified at Bacolod City, on 27 day of February, 1946, as follows:

- Q State your name, age, nationality, address, occupation and religion.
A Lauro MARIANO, 26 years old, Filipino, residing in hacienda Balogo, Bacolod City, laborer and I am a Roman Catholic.
- Q In case you should move, how shall we be able to locate you?
A You may inquire of Lasio MONTIBON, residing in Granada, Bacolod.
- Q Where were you living when the Japanese landed on Negros Island?
A I was living in Balogo, Bacolod City. I lived there until the American Forces landed on Negros.
- Q Do you know of any killing of civilians or prisoners by the Japanese in or around Boroboro, Bacolod?
A Yes, I know that Bartolome TORIANO, 38 years old, Filipino and then residing in Barrio Concepcion, Talisay, was killed by NAKATANI who wore an insignia bearing three stars and no bars but whose other name or names I do not know; and who was stationed in Boroboro under the command of Lt. NANJYO, the garrison commander.

Please tell us all that you know of this killing.
On July 15, 1944, in the morning, I was gathering firewood at a place about fifty meters away from the Boroboro garrison. At about eight o'clock of that morning, two Japanese soldiers whose names I do not know and two Fil-Japanese Constabularies whose names I also do not know but all four I know to be stationed in Boroboro, approached me and told me to cut away about one and one-half meters square of the grass that grew on the ground. I did cut away the grass, after which I resumed gathering and cutting firewood at a place just about five meters away from the cleaned ground. I then saw the two Japanese soldiers digging a hole about a meter square on the cleaned ground. I asked one of the Constabularies what the hole was for and I was told that a Japanese named NAKATANI had beaten so badly a man that the man should be buried. At noon of the same day, I left the place to go home and eat my dinner. When I left the Japanese were still digging. I returned at about three o'clock in the afternoon of the same day, to gather more firewood. I saw that the hole was already covered with fresh earth and some coconut leaves. A dog whom I recognized to be Bartolome TORIANO'S because I have seen it always go with TORIANO in Concepcion was howling over the hole. I concluded then that the man who was buried there was Bartolome TORIANO. Next morning, I rode on a train from Boroboro to go to Bacolod City. I met on the train the Constabulary from whom I asked the day before what the hole was for. I asked him who was buried in the hole. He told me that it was Bartolome TORIANO, and that the Japanese who killed him was NAKATANI, who cut off the head of TORIANO, and that the Japanese who killed him was NAKATANI, who cut off the head of TORIANO while TORIANO was kneeling beside the hole.

In November Purificacion SALON, wife of Bartolome TORIANO asked me to lead her to the place where her husband was buried; and I took her to the hole I have described above. There she recovered some bones she recognized as those of her husband.

- Q Have you ever seen NAKATANI?
A Yes, I have seen him many times in the railroad station in Boroboro.
- Q Please describe NAKATANI for us.

U.S.A. vs. Maas Mayo

Prosecution

Defense

Exhibit No. 5

Received: 19 October 1946

R E S T R I C T E D

A NAKATANI was about thirty five years old, about five feet and eight inches tall, weighs about one hundred and forty five pounds, had a white complexion, wore a mustache, wore no spectacles, and had three gold-teeth- two on the upper incisors and one on the left upper cuspid.

Q Have you ever seen Lt. NANJYO?

A Yes, I have also seen him many times in Boroboro.

Q Why was Bartolome TORIANO killed?

A I do not know.

Q Do you know if TORIANO had any connection with the guerrilla?

A I do not know. I know only that he was a civilian earning his living by being a butcher.

Q Do you know if any trial was given to Bartolome TORIANO before he was killed by the Japanese?

A I do not know.

Q Was Concepcion, Talisay, within the Japanese safety zone or in the bandit zone?

A It was in the Japanese safety zone.

Q Have you anything further to add to your statement at the present time?

A None.

/s/ Lauro Mariano
/t/ LAURO MARIANO

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF NEGROS OCCIDENTAL)
CITY OF BACOLOD)

I, Lauro Mariano, being duly sworn on oath, state that I had read to me and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of two (2) pages, are true to the best of my knowledge and belief.

/s/ Lauro Mariano
/t/ LAURO MARIANO

Subscribed and sworn to before me this 27 day of February, 1946.

/s/ James S. Miner
/t/ JAMES S. MINER, 2nd Lt., Inf.
Investigating Officer, War Crime
Investigating Detachment.

R E S T R I C T E D

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF OCCIDENTAL NEGROS) SS
CITY OF BACOLOD)

I, Manuel Javellana, 2nd Lt., Inf., P.A. O-36868, residing at San Sebastian Sub-division, Bacolod City, Occidental Negros, being duly sworn on oath, state that I truly translated the questions and answers given from English to Visayan and from Visayan to English respectively, and that after being transcribed, I truly translated the foregoing deposition containing two (2) pages to the witness; that the witness thereupon in my presence affixed his signature thereto.

/s/ Manuel Javellana
/t/ MANUEL JAVELLANA, Interpreter

Subscribed and sworn to before me this 27th day of January, 1946.

/s/ James S. Miner
/t/ JAMES S. MINER, 2nd Lt., Inf.
Investigating Officer, War
Crimes Investigating Detachment

C E R T I F I C A T E

We, James S. Miner, 2nd Lt., Inf., O-1336676, and Felix L. Finley, Jr., 2nd Lt., QMC, O-1598370, certify that on 27th day of February, 1946, personally appeared before us Lauro Mariano, and according to Manuel Javellana, gave the foregoing answers to the several questions set forth therein; that after his testimony had been transcribed, the said Lauro Mariano had read to him by the said interpreter the same and affixed his signature thereto in our presence.

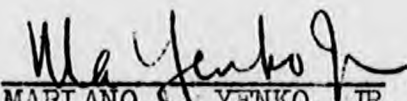
Bacolod City,
Negros Occidental

/s/ James S. Miner
/t/ JAMES S. MINER, 2nd Lt., Inf.
Investigating Officer, War
Crimes Investigating Detachment

27 February 1946.

/s/ Felix L. Finley, Jr.
/t/ FELIX L. FINLEY, JR., 2nd Lt.,
QMC
Investigating Officer, War
Crimes Investigating Detachment.

CERTIFIED TRUE COPY:


MARIANO A. YENKO, JR.
Capt., JAGS, (PA)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA	)	
	)	
vs	)	PUBLIC TRIAL
	)	
MASAO NANJO	)	

VOLUME XIII
PAGES 776 TO 825, INCL.

MANILA, P.I.

DATE: 21 October 1946

COPY NO: 1

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
21 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	Japanese
2d LT. TAICHI NISHIHARA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>D I R E C T</u>	<u>C R O S S</u>	<u>R E D I R E C T</u>	<u>R E C R O S S</u>	<u>EXAM. BY</u> <u>COM.</u>
Lt. Ichiro Yamaguchi	777	807	811	791	
(Cont'd)		816		802	

P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 21 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel Ward and Schauer, the defendant and his personal interpreter, the assigned interpreters of Japanese, the reporter are all present in court.

Will you kindly remind this witness that he has already been sworn and is proceeding under the oath previously administered?

(Interpreter Saite so reminded the witness.)

MR. AITKEN: At the close of the last session the witness, Lieutenant Ichiro Yamanouye, was on the stand undergoing cross-examination. I think there was a question pending at the time, I don't remember whether it was settled as to the scope of his examination due to the fact that he claimed immunity under the ordinary usual provision that one is not required to incriminate himself.

COLONEL STICKNEY: As I recall, a motion had been made and denied.

MR. WARD: At the end of the last hour, I believe that it was agreed that the witness in open court should be notified of his right and notified that there would be no subsequent notification upon a question being asked that would be within his privilege of self-incrimination.

COLONEL STICKNEY: Yes.

MR. WARD: At this time may I instruct the --

COLONEL STICKNEY: No, I will instruct him. I would like the interpreter to translate to the witness. You are here as a witness in the case of Lieutenant Nanjo and the Commission wishes to get at the facts that will make the case of Nanjo clear to them. There is no intention to get from you any testimony which might incriminate you. In so far as we know there is nothing charged against you. If any question that is asked should tend to incriminate you, you are given the privilege of explaining that to us and of not answering the question. Now, do you understand all that?

(Interpreter Saite interpreted to the witness.)

A I understand.

COLONEL STICKNEY: Now, furthermore, if Mr. Ward made any statement to you that he was going to represent you as counsel, the statement was made without authority, as Mr. Ward is counsel for Nanjo. You along with all other witnesses that appear before the commission against whom there are no charges appear without counsel.

(Interpreter Saite interpreted to witness.)

A I understand it, sir.

CROSS-EXAMINATION (Cont'd.)

BY MR. AITKEN:

Q You stated that the Americans landed on the 29th of March 1945, is that correct? When I say landed, I mean in Occidental Negros.

A I believe so.

Q Where?

A I cannot say for a certainty because I made the assumption that they had landed because upon arrival at Bagu we met enemy armored vehicles where we had a skirmish with them.

I also observed scout planes, enemy scout planes, in the air. From these observations I judged that they had landed in Negros.

Q Were you stationed at Bago?

A I was stationed in Mining, normally called Mac garrison unit.

Q Is that on the coast or is it inland?

A About fifteen or sixteen kilometers east from the coast. It is near the mountains.

Q Were you in command of a unit?

A Yes, I was in command of a unit.

Q How many men?

A About twenty-five or twenty-six men.

Q Were you the only officer for that unit?

MR. WARD: Objection at this time. It should be specified at the time that we are referring to. That is on or about March 29, were you the only officer, and his question should be related specifically as to time because it is well known that the Japanese Army had a varying number of officers and men.

MR. AITKEN: I will withdraw the question.

Q What was the time you say you had the skirmish?

A 29th of March.

Q Were these tanks you say you had the skirmish with?

A Yes.

Q Had these tanks come in from the coast?

A I judged that they had come from the direction of Bago.

Q Bago was the nearest coast port to your station, was it not?

A Although Bago is not a normal shipping port, they are capable of handling smaller ships and I believe that Bago is the nearest coast port from where I was staying.

Q And was there a road that ran directly in from Bago to Mac or Mining?

A Yes, there were two routes direct from Bago to Mac.

Q Were these two routes accessible to vehicular transportation?

A Yes, these two roads along the Bago River can easily be traveled by vehicles.

Q Did the tanks that you have mentioned travel on one or both of the roads?

MR. WARD: Objection at this time. This is completely immaterial as to what this witness has testified on direct examination. It is completely without the testimony of the witness on direct examination, and it is completely immaterial here to the Charge and Specifications at this time. The purpose of this witness' testimony was to establish about when he went to Bacolod, Concepcion, and when he landed in the hills and who he saw there. We have never gone back on direct as to what happened at Bago and it is completely immaterial, both as to the Specification and without the direct testimony, and we object to further questioning along this line.

MR. AITKEN: I am leading directly up to the fact or the point where he stated he was in such and such a place at such and such a time, and he believed he was the last one, and I want to show by detailing their movements within that time up to that point to see whether it was possible or not.

COLONEL STICKNEY: It seems very similar to movements made by witnesses of the prosecution when on cross-examination by the defense, and the objection is not sustained.

MR. AITKEN: I will promise this, I will try not to take up any unnecessary time in this. Question please?

(Last question read by reporter.)

A I believe they could be traveled by tanks because they are easily traveled by vehicles.

Q Now, how many officers at that time, the time of the skirmish, did you have with you in command of your unit of twenty-five or twenty-six men?

MR. WARD: Objection. This is again completely immaterial as to what counsel just stated his purpose was in this line of examination. How many men makes no difference how long it was going to take the American troops or the Japanese troops to get from Bago to Bacolod, to the mountains. In addition thereto, it is prejudicing the witness' rights, in this instance, as the purpose is obviously a fishing expedition for those "permission" counts allowed by this type of Charge, in that the men under such and such a commander did commit such and such atrocities. Therefore, it is objectionable on two counts, merely as a fishing expedition, and completely immaterial to the count specified and without counsel's statement of his own purpose of the questioning.

COLONEL STICKNEY: It is highly undesirable that the counsel for the defense will act as counsel for the witness either by doing so directly or by doing so by signals or prearranged plans. Once and for all, if anything is prejudicial to the accused, he knows his rights, and he should determine, and if he does that of his own free will without any prearranged plan, signal, or statement by counsel for the defense, his rights will be respected.

MR. WARD: The Commission at this time has encroached upon the integrity of the defense counsel. The last time in court I stated I had not seen this witness until he came in court and I was under the impression I would be allowed to tell him of his rights. At this time I request that the question be asked of this witness whether or not I have talked to him since he left our courtroom on Saturday morning until he came into the courtroom this morning and if I have talked with him directly any time therein. Defense counsel has not talked to this witness. There is no prearranged schedule that I have told him of during that period.

COLONEL STICKNEY: I have not stated there was a prearranged schedule. I am merely getting it in early in the game, before we have a great deal of rising and talking about this man being prejudiced or getting into trouble.

MR. WARD: From now on, then, I will object merely to those questions which I believe are incompetent, irrelevant and immaterial. I will, every time counsel for the prosecution insists on asking these questions that are not believed material to the issues now involved, certainly object to them. My purpose is two-fold, but mainly to protect my defendant. From now on, on questions that are immaterial, and this is certainly one of the obvious cases of immaterial questions, counsel for the defense must object, and certainly the objection must be made from the floor, unless the Commission can state another way of doing it.

COLONEL STICKNEY: Will the reporter read the question?

(Reporter read the question.)

COLONEL STICKNEY: The objection is not sustained.

A I was the only officer. There were no others besides me.

Q How much time did this skirmish occupy?

A Since we had no equipment to fight the enemy tanks, we immediately withdrew into the bamboo thickets, where we stayed for awhile.

Q When you say you immediately withdrew, do you mean you withdrew further inland towards the mountains?

A We withdrew about one kilometer northward from the road. I thought the situation rather odd because of the activity of the airplanes, so I thought that it would be best to withdraw to a place offering concealment from the air.

Q And this place to which you withdrew northward to get shelter from the air was northward and away from Bacoled?

COLONEL STICKNEY: I would like to interrupt. You said, "northward and away from Bacoled"?

MR. AITKEN: Yes.

COLONEL STICKNEY: It would seem that northward would not be away from Bacoled, and I wonder --

MR. AITKEN: I may be mistaken. I had an idea that Bago was northward of Bacoled. I will reframe the question (consults map). Just to save time, does your map show Bago was south of Bacoled? I will delete the question.

(To reporter) Will you repeat the question, using the words "north and towards Bacoled," instead of "away from Bacoled."

(The reporter read the question as follows:)

Q And this place to which you withdrew in order to get shelter from the air was northward and toward Bacoled?

INTERPRETER NISHIHARA: Would it be possible to enter the word "Bago" somewhere? It would be much easier to put the question.

MR. AITKEN: Will you read the question, please?

COLONEL STICKNEY: I think we have testimony from this witness that he went northward, and I don't see anything added by this question.

MR. AITKEN: Delete the question.

Q How long did you stay at this place that you withdrew to when you were seeking shelter from the air?

A I estimate about one hour.

Q And then after that where did you proceed to?

A Then, with the approach of the night, we marched past the location between the Murcia and Bacoled airfields. We proceeded eastward and on or about the 31st day of March, we arrived at Granada. On the early morning of that day we arrived at the force headquarters.

Q Who was in command of this force headquarters that you refer to?

A Force commander Yamaguchi was in charge.

Q How many men were there?

A When I arrived there the enemy seems very near the positions. Since some of the men were distributed for outpost securities and patrols and the like, I cannot give you the right estimate, but as for the ones remaining, I believe they were about thirty to forty.

Q When you say there were about thirty or forty remaining, you mean they remained in that place after the others had departed, or there was a group of thirty or forty who remained there in charge of headquarters while the others were out on outposts?

A These men remaining at headquarters were men responsible for rations, ammunition, etc., and the ones who were gone were members of the first line units.

MR. AITKEN: Will you read the question, please?

COLONEL STICKNEY: I think we have testimony from this witness that he went northward, and I don't see anything added by this question.

MR. AITKEN: Delete the question.

Q How long did you stay at this place that you withdrew to when you were seeking shelter from the air?

A I estimate about one hour.

Q And then after that where did you proceed to?

A Then, with the approach of the night, we marched past the location between the Murcia and Bacoled airfields. We proceeded eastward and on or about the 31st day of March, we arrived at Granada. On the early morning of that day we arrived at the force headquarters.

Q Who was in command of this force headquarters that you refer to?

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Q When you say there were about thirty or forty remaining, you mean they remained in that place after the others had departed, or there was a group of thirty or forty who remained there in charge of headquarters while the others were out on outposts?

A These men remaining at headquarters were men responsible for rations, ammunition, etc., and the ones who were gone were members of the first line units.

Q Was this place where the headquarters of Yanaguchi were eventually evacuated completely?

A Yes, I believe so.

Q Was it evacuated in a body or was it evacuated by groups or units leaving for the mountains?

A I do not know of such details.

Q How long did you remain there at that point of concentration where the headquarters were?

A It was rather dark when I proceeded towards Boreboro with the main force of the unit.

Q How long had you remained there at this headquarters concentration before you started to proceed toward Boreboro?

A It was about sixteen or seventeen hours.

Q So you proceeded from there towards Boreboro about the first of April?

A It was the night of the 31st of March.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Kindly remind the witness that he is proceeding under the oath already administered.

(Interpreter Saito so informed the witness.)

Q How long did you stay in Boroboro?

A It is over one year already and I cannot recall it very well. We arrived at Boroboro in the early morning of the 1st of April. I believe we had waited for the evening to fall before we started from there.

Q Now, when you arrived at Boroboro, did you report to any other officer -- was there a superior officer there?

MR. WARD: Objection at this time. Again, it is immaterial to the Charge against this defendant Nanjo whether or not he reported to an officer. He stated the time interval. If the counsel can state materiality for the question we will certainly withdraw the objection. If not, the objection stands at this time.

COLONEL STICKNEY: Any statement?

MR. AITKEN: Yes, it is material. I am proceeding directly along the line of this man's testimony that he arrived at Boroboro, that he left there with his men as the statement on direct examination he was the last unit out, and he ought to know the details of what occurred while he was in Boroboro. If he does not, then his testimony is not going to be very strong and I am entitled under cross-examination to test him out to find out these details. They are not immaterial by any means.

COLONEL STICKNEY: There seems to be gaps

between the time on the 29th of March when the witness was on his own and some time in April when he was under the company commander, Okamoto, and the objection is not sustained.

A After Granada I was already under the command of the unit commander, and after arriving at Borobore I acted on orders of the unit commander.

Q Who was this unit commander Okamoto?

MR. WARD: Objection again. The name of the man is entirely immaterial. He testified to what happened that he was under the orders of his unit commander to whom he referred. If counsel can again show some materiality as to the name of this man, he should certainly do it. Otherwise, it is certainly immaterial as to Nanjo.

MR. AITKEN: This man's veracity is an issue in this case all the time. I am entitled to elicit any information under cross-examination that will have any tendency to either prove or disprove his veracity.

MR. WARD: Certainly if there is some materiality to the issue. Now, if counsel can state he knows at this time who the unit commander of that position was, I will take his word for it that he may that way contest the veracity of this witness, but as counsel states, he does not know the name of that unit commander and would have no way of contesting the veracity of this witness. I will take the counsel's word for it if he states he knows the name and I will withdraw my objection.

MR. AITKEN: I may know it later.

MR. WARD: That is what I mean.

MR. AITKEN: I don't have to know it now. I can ascertain from the roll, from the roll of personnel, as to whether there was such a unit commander and if he names any particular person ---

COLONEL STICKNEY: The objection is not sustained.

A I replied previously that it was Lieutenant Okamoto. However, I replied so because I was only a platoon leader under the command of Okamoto. About the 6th or 7th day of April I received a report of death in action of Lieutenant Okamoto and I was subsequently ordered to take command by Unit Commander Yamaguchi. If I were to state who was the unit commander at Granada, I would say it was Unit Commander Yamaguchi.

Q Up to the time, however, that you arrived at Boroboro you were a subordinate of Okamoto, were you not?

MR. WARD: Objection. The question has already been asked and answered. He just stated --

Q (Continued) And a member of Okamoto's unit?

MR. WARD: Objection at this time. It has been asked and answered. He just stated the facts.

COLONEL STICKNEY: The objection is not sustained.

A From the time between reaching the Mining garrison and going to Granada I was not under the command of Lieutenant Okamoto. However, I was a member of that unit but not under his command during that time.

Q The Okamoto unit was not a part of the Takahaski unit, was it?

A The Okamoto company was the third company of the Yamaguchi unit, and the Takahashi unit was the first company of the same unit.

Q And they operated in different areas, did they not?

A The Okamoto unit was responsible for the security of the La Carlota area, which is south of Bago, and the Takahashi was responsible for security north of that area.

Q So when you got into Boroboro you were then in the area of the Takahashi unit, were you not?

A Yes.

Q Now, when you left Boroboro, did you leave as an independent unit of your own, or did you leave with other units?

MR. WARD: Objection at this time. The witness has testified to companies, and we are now speaking of units. I wish counsel would be more explicit in what he means by "units." Whether he means a unit as the equivalent to this man's Yamaguchi company, or whether he means a unit as twenty-five men under this man's supervision. I wish he would make his question more explicit. We object on the ground that the answer can be construed ambiguously.

MR. AITKEN: I suggest that the witness be asked to state whether he understands or does not understand. The unit is not any particular number of men at all. It may be six men under a corporal, or it may be a company under a captain or a lieutenant.

MR. WARD: The question obviously is ambiguous. Counsel himself does not know what he means.

Certainly he can express, "Were the men under your direct command going," and thus elicit the information, but when he gives an ambiguous question the witness certainly can reach the same conclusion.

MR. AITKEN: I will withdraw that question.

MR. WARD: All right.

Q When you arrived at Boroboro with your unit of twenty-five or twenty-six men, did you leave there as the same unit or did you leave there merged with other units?

A We reached there together with the Yamaguchi unit and we left with the Yamaguchi unit.

Q Did the Yamaguchi unit leave in a body or did you leave in separate squads or units?

A In other words they just included the combat men of the Yamaguchi unit who left Granada and there were no other units.

Q You mean there were no other units left there, that remained behind? I am trying to get a direct answer to whether Yamaguchi's command left Boroboro at one time.

INTERPRETER NISHIHARA: By "there" do you mean Boroboro?

MR. AITKEN: Yes.

A I testified previously that the Takahashi unit was in charge of the security of the area north of Bago and of Boroboro itself. However, it was formerly and more recently the Takahashi unit was in charge of the security of the Murcia area and I remember that the Hori unit was there at Boroboro. I do not know whether the headquarters were there or not.

Q However, you left Boroboro, did you not?

A Yes.

Q On what day?

A I remember that we left around the evening of the 1st of April.

Q And you proceeded directly towards where?

A It was night and the area was unknown to me. Therefore, I do not know the exact direction, but I believe that it was northward.

Q At that time, did your unit consist of the same twenty-five or twenty-six men?

A We were together with some seventy or eighty men of the Yamaguchi unit, under the command of Yamaguchi. The machine-gun unit under my command returned to the company and I was directly in command of sixteen or seventeen men.

Q And you with your sixteen or seventeen men left, as you state, on the night of the 1st of April?

MR. WARD: Objection. It has been asked and answered. He just said he left Boroboro on the evening of April 1st. I don't understand counsel's purpose in continual repetition.

MR. AITKEN: It is only preliminary. I will ask him again if he was alone or if the others were with him.

MR. WARD: I withdraw the objection.

A The sixteen or seventeen men were included in the seventy to eighty men of the Yamaguchi unit.

Q And they all left together?

A Yes.

Q In what part of the column where the sixteen or seventeen men, the leading part or the end?

A Since we were in charge of the security of the rear, we were in that position.

Q Now, was Bacolod completely evacuated by that time?

A Since Granada was already under attack, I estimate from that that we were the last unit there.

MR. AITKEN: My question had reference to Bacolod.

INTERPRETER NISIHARA: By "there" is Bacolod.

A (Cont'd) While I was at Granada there was a call from the Kono unit at brigade headquarters in the mountains, saying that the Yamaguchi unit will also retreat, and I believe that the Yamaguchi unit was the last in Bacolod.

Q Do you know how many men there were in the Yamaguchi unit?

A I do not know for sure.

Q Do you know approximately?

A Since I was in the southern area and there was no liaison with the other units and I did not know how many units were attached to the Yamaguchi unit or what set-up they had at unit headquarters, I could not give a definite figure.

MR. AITKEN: That is all.

COLONEL STICKNEY: Redirect examination?

MR. WARD: No further redirect examination by the defense.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q When you left Boroboro was the Hori unit still there?

A The Yamaguchi unit headquarters, or the main strength thereof, was located near the Hori unit. However, we were

responsible for the security of the rear area, that is, the area from which the American attack would come, and I do not know whether they were there or not.

Q What did you say about the Hori unit being at Boroboro about the 1st of April, 1945?

A I stated previously that the Takahashi unit was responsible for the security of the area north of Bago -- that is, in the neighborhood of Murcia -- and also that the Hori unit was responsible for the security of the Boroboro--Concepcion area. I said that I thought so.

Q Do you know whether the Hori unit was in the vicinity of Boroboro and Concepcion and whether or not the Hori unit was in the vicinity of Boroboro on the 1st and 2nd of April, 1945?

A When I arrived in Granada I heard the Hori unit was behind us in Concepcion.

Q Did you pass through Concepcion?

A We did not pass through Concepcion.

Q Do you know whether or not the Hori unit was at Concepcion on the 1st, 2nd, 3rd, 4th of April, 1945?

A As I have stated previously, we left Boroboro on the 1st of April, and because of the fact that our movements were confined to night advances, and as I said before, we rested by the river and I had no occasion to hear anything of that sort.

Q You stated yesterday that you rested by a stream at night on the 3rd of April. Is that the testimony that have just referred to?

A Yes.

Q You left Boroboro on the night of the 1st of April, is that right?

A Yes.

Q And you confined your movements to hours of darkness?

A We reached a position approximately one kilometer north of Boroboro and the unit headquarters was approximately 500 meters ahead of us and that was on the night of the 1st or early morning of the 2nd. Again in the evening of the 2nd of April we commenced a night advance and in the morning of the 3rd of April we rested by the stream. We left in the afternoon of the same day and reached the positions of the 1st Company or the Takahashi unit at around 12 at night, or perhaps one or two in the morning, of the 4th of April.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Saito so reminded the witness.)

Q What was the rank of Hori?

A I believe it was major.

Q Do you know the size of his unit?

A I do not know.

Q What was the rank of Yamaguchi?

A Colonel.

Q Do you know what he commanded?

A To what time are you referring?

Q Around the 1st of April 1945.

A Just only our unit.

Q Was it one battalion, two battalions, three battalions?

A Since the Yamaguchi unit was an independent battalion, it was only one battalion. However, I do not know whether any other units were attached to it or not.

Q Did Major Hori command a battalion?

A At that time Major Hori was a battalion commander and, I believe, that he was in command of a battalion.

Q Was Major Hori's battalion a part of the Yamaguchi forces on the 1st of April 1945?

A I was responsible for the security of the Mao area and when they reached Granada on the 31st of March we were very busy because of the imminence of the American attack at that time. The 1st of April the Yamaguchi unit consisted of from seventy to eighty men.

Q When you say that you believe there were no further units

behind you going into the mountains in early April 1945, do you mean that there were no other units of the Yamaguchi battalion, or do you mean that there were no other units from either the Yamaguchi battalion or the Hori battalion?

A When we left Granada and received the telephone call from the Kono unit, and when we reached a position approximately one kilometer from Boroboro, American tanks had already entered Boroboro, and I heard that the American Forces had already occupied Boroboro. Therefore, when I said that there were no units in back of us I meant that there were no units that would include any unit whether it be the Yamaguchi unit, the Hori unit, etc.

Q You stated that the Hori unit had responsibility for the area Boroboro - Concepcion, did you not?

A Yes.

Q And you did not go to Concepcion?

A I did not. But, when we reached Granada a member of my unit who had gone through Concepcion told me that a part of the Hori unit was there, and I also know from documents that the Hori unit was responsible for the security of the Boroboro area.

Q What is your information as to the time that the American Forces arrived in Boroboro?

INTERPRETER NISHIHARA: Just what do you mean sir, in that question?

Q When were the Americans first in Boroboro, to your knowledge?

A I was in the rear-most position and I personally saw them -- I believe it was in the afternoon of the 2nd of April.

Q Where was Okomoto in the last three days of March?

A Liaison with the Okomoto unit was very inadequate and I do not know of his last action. However, after we had withdrawn to the mountain I heard from a man who had been with him that they withdrew from La Carlota in the morning of the 29th of March and advanced to Mao, because of the attacks of American planes they stopped in a bamboo thicket. The morning of the 30th of March they advanced to the Mining area. However, they estimated that our unit had left there already and advanced toward Bago. However, on the way they saw the tracks of the tanks and thought that the Americans had already landed. They crossed the Bago River at a place called Maningan and reached a position of approximately one kilometer northeast of Maningan and were preparing for breakfast there. At that time they were surrounded by four American tanks and attached unit and the main strength of the company was annihilated here by the tanks and the attached unit with the coordination by airplanes, and Okomoto also died there.

Q That left your unit as the only surviving members of that company, is that correct? Your platoon, that left your platoon as the only surviving members of the company, is that correct?

A Yes.

BY COLONEL MacKINTOSH:

Q When you came toward Boroboro from Granada, did you get into the town of Boroboro, or did you stop one kilometer away?

A I had never gone there and I did not know even the exact whereabouts of the town itself. But, according to others the unit headquarters was at the Boroboro garrison and I took up a position for security in an open area in front.

Q Actually, within the town, or was this one kilometer out of the town, approximately?

MR. WARD: Objection at this time, and more than an objection. It is an observation. Both Mr. Aitken and myself know that he has explained the area and our investigators, say Boroboro is equivalent to an American whistle stop. Actually, I don't believe there are any houses in that area. It is a stop for the train. If I am wrong, Mr. Aitken, please correct me -- and to put that in the record as such or even state it is known as a barrio, or sitio as referred to previously in the record would be erroneous, and if you could frame your question with that in mind I think the record would be more straight and it would be more intelligent both to the witness, to the prosecution and defense, and the Commission, if the Commission so please.

MR. AITKEN: If I can be of any help, I will be glad to do it. I have been there and seen the place myself.

COLONEL MacKINTOSH: I will withdraw the question.

MR. AITKEN: My silence does not mean that I concur altogether with what counsel said, but I could explain the place.

Q You said on direct examination that you reached the Takahashi unit about midnight on the 3rd of April, is that correct?

A I am not sure whether it was midnight of the 3rd of April or one or two in the morning of the 4th of April, but we had reached the Takahashi unit about that time.

Q Do you remember whether or not any other small group reached the Takahashi unit after you did?

A I have not heard of such arrivals.

BY COLONEL STICKNEY:

Q What company did Lieutenant Masao Nanjo belong to?

A The Takahashi unit.

Q Do you know where this place was where you joined the Takahashi unit around midnight, the 3rd, or one or two o'clock in the morning of the 4th of April?

A I do not know the details of the position of the Takahashi unit. However, I believe that it was to the front of it -- in the extreme front of it.

Q The extreme front of --

A Of the positions of the Takahashi unit.

Q Do you know the geographical position where it was located? I withdraw that question. Do you know whether it was at Mt. Hagbuyo or not?

MR. WARD: If the Commission please, we have already gone into the problem of where this position might be. I have a map of the area and my next few questions -- if the Commission would rather have me do it, with reference to a piece of paper on which the directions and the various places are shown, I would be ever so happy to do it that way, rather than take more time by merely fishing, if the Commission please.

COLONEL STICKNEY: You are using the word "fishing" in a new sense?

MR. WARD: Not "fishing." Excuse me. "Speculating," I believe that would be a better word.

COLONEL STICKNEY: You are through with this witness, are you not?

MR. WARD: At this time the Commission has opened up a place. If the Commission please, I could do it a little bit --

COLONEL STICKNEY: I will withdraw my question.

Q When you said yesterday on direct examination that the Boroboro water shed was in the possession of the Americans when you got there, what do you mean by the term "Boroboro water shed"?

A I was referring to the area where we took up security after we reached there, and also to the location of the former garrison there.

Q And what do you mean by saying that the Americans were in possession of this when you got there?

A I was referring to the time after we had left Boroboro and were in a position approximately one kilometer away on the 2d of April. We were responsible for the security of the rear and I was referring to the position we had occupied the day previously and I saw the American troops occupying Boroboro that day.

Q Then, by "water shed," you do not mean all the land which drained into the reservoir at that point, is that correct?

A I remember that the water for Bacoled was accumulated at that point and I remember that we referred to that area as the Boroboro water shed.

Q On the night of the 1st of April, you moved from Boroboro to a place one kilometer north thereof, is that correct?

A Yes.

Q And you stayed there from early morning until evening of the 2d, is that correct?

A Yes.

Q Were you during that time on land which drained into the Bacoled water system?

A I do not know where the reservoir is and I estimated that the position where we stopped was one kilometer away from Boroboro.

Q If you do not know where the reservoir is, how do you know the Americans were in possession of the water shed?

A As I said before, we, as well as the men of the Boroboro garrison, referred to Boroboro as the Boroboro water shed.

BY MAJOR FRITZ:

Q After the 1st of April, during your withdrawal, did you maintain liaison with elements of any other command?

A No, we did not. However, I was not at the unit headquarters and I could not say for sure. From the estimate of the situation, and so forth, I believe that it would have been very difficult to maintain liaison with other units.

Q Prior to the 1st of April that year, did you know Lieutenant Nanjo?

A I knew that Lieutenant Nanjo was in the Takahashi unit.

Q Prior to the 1st of April, did you ever see Lieutenant Nanjo?

A Yes.

Q At any time after your unit left Boreboro, did you have occasion to see Lieutenant Nanjo?

A After we reached the Takahashi unit, either around midnight of the 3rd of April or early morning of the 4th of April, I saw Lieutenant Nanjo, because he came out to meet us.

Q From the time your unit joined the Takahashi unit -- that is, the morning of the 4th of April -- how long did that command remain in place?

INTERPRETER NISHIHARA: Shall I give the answer as he has given it? I don't think it is responsive to the question.

COLONEL STICKNEY: Can you get an answer that is responsive?

INTERPRETER NISHIHARA: Could I have that question explained a little more? Perhaps he could phrase it a little differently.-- this matter of a command.

MAJOR FRITZ: I will withdraw the question and ask another one.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, defendant and his personal interpreter, the assigned interpreters, and the reporter are all present in court. Please remind the witness that he is proceeding under the oath already administered.

(Interpreter Saito so informed the witness.)

EXAMINATION BY THE COMMISSION (CONTINUED)

BY MAJOR FRITZ:

Q After you joined the Takahashi unit on the morning of 4 April, was that unit in bivouac and if so, how long did it remain in bivouac?

A The place that we reached was the position of the Takahashi unit. Of course, they were in bivouac but I don't know how long they stayed in bivouac.

Q Do you recall whether they spent the night of the 4th of April there and left on the following day, or did they break bivouac and leave that same day that you arrived?

A Since these were the positions of the Takahashi unit I believe it was their intent to stay there and fight the American forces. I do not know how long they stayed there.

Q Did you remain with that unit until they left?

A Those were the positions of the Takahashi unit and

not of my own. Therefore, I would not know because I left there after a few hours and I went to my own positions.

Q What was the geographical location of the positions of the Takahashi unit?

A The position was designated by a Japanese name. If you wish me to mention the Japanese name, I could give it to you. However, I do not know the real name of that location.

Q How far from the Takahashi unit did you take your position?

A I took up my position north over a large river. In Japan we designate that as the Nishi-Taro-San.

MAJOR FRITZ: Is that the entire answer?

INTERPRETER NISHIHARA: Yes.

Q Did you maintain contact with the Takahashi unit after you took up your new position?

A No.

Q Did you have personal knowledge of the movements of the Takahashi unit after you departed?

A I do not know. However, since their positions were incomplete, the main strength of the unit was engaged in constructing positions.

Q From the time you departed, do you have personal knowledge of the movements of the Takahashi unit? In other words, their route of march, their hour of departure, and so forth.

A I do not know because I did not see them and we were apart and we did not keep up any sort of liaison at all.

Q You stated that you joined the Takahashi unit perhaps at midnight on the 3rd of April, or perhaps 1 or 2 o'clock on the morning of the 4th of April -- you also stated that you left that unit several hours after you arrived. At approximately what hour would that be?

A I do not remember the time, but I believe it was one or two hours after we had arrived there.

Q Was it before or after dawn, sunrise?

A It was before dawn.

Q Do you know the location of a place called Magbuyo?

A No.

MAJOR FRITZ: No further questions, sir.

BY COLONEL STICKNEY:

Q Do you know a place called San Juan?

A I do not know those place names at all.

COLONEL STICKNEY: Any other questions?

BY COLONEL MACKINTOSH:

Q In what direction from Granada were the positions of the Takahashi unit on the 4th of April?

MR. WARD: Excuse me at this time. As I have mentioned to the Colonel a few minutes ago, I am going to go into that matter with the witness and it might facilitate matters a great deal to see it on paper -- I have a map, because he travelled at night.

COLONEL MACKINTOSH: I will withdraw the question.

COLONEL STICKNEY: Are you going to introduce the paper?

MR. WARD: It will be marked for identification at this time. It will be later introduced, the copies are all ready.

Q During the time you were with the Takahashi unit, did they send any long-range patrols back toward Granada, or Concepcion, or Boroboro?

A They did not send any while I was there.

Q Do you know whether or not they sent any?

A I do not know.

BY COLONEL STICKNEY:

Q Do you know in what direction and how far you had gone from Boroboro when you reached the Takahashi unit area?

A I do not know the location from Boroboro at all.

Q From the time you left your spot one kilometer north of Boroboro, how many hours did you march before you reached the Takahashi unit area?

A The trail was small and it was inconvenient for us to march and on top of this it was at night. Therefore, we had a very difficult time. I do not know the number of hours for certain. However, we departed the evening of the 2nd and reached either at midnight of the 3rd or one or two in the morning of the 4th. During that time we rested beside a small stream on the morning of the 3rd.

Q Well, how many hours of marching were there in all?

A The march along, I believe, took approximately twenty hours. This also excludes rests which we took at four intervals.

Q How many kilometers would you say you covered?

MR. WARD: Objection. I am sorry to interrupt the Commission in that last question but the Commissioner is misquoting the evidence. The witness has already stated in answer to a previous question that he did not know how far this area was, and therefore in asking him how many kilometers he did cover, it would be misquoting the statement.

Q What was your average speed per hour in kilometers?

A I cannot tell because the march was mostly at night. There were various obstacles and I cannot say. I was not even familiar with the terrain in the daytime.

Q Do you have any idea whether you were moving north, south, east or west?

A I remember that we went due north for a while and then turned east.

Q You are now talking about the trip after you left Boroboro, is that correct?

A Yes.

Q How far was it from the Takahashi unit area to the unit area of your platoon?

A I cannot say, but I do remember it was over this large river -- the river Imbang.

Q Can you tell me how many kilometers distance it was from the Takahashi unit area to your own unit area?

A I am not certain, but the distance was about the distance a small-calibered gun could fire. Directly, I would say it might be around one kilometer.

Q You were only in contact with the Takahashi unit for about one or two hours at about midnight the 3rd and 4th of April, is that correct?

A Yes.

Q And did you see the accused during that one or two hours?

A Yes.

COLONEL STICKNEY: Anything further from the defense?

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q At this time, I am going to show you a piece of paper resembling the area around Bacolod. I would like to know if it is reasonably accurate.

A I believe it is.

Q Calling your attention now to Bacolod and then directing your attention to Boroboro, it was one kilometer from Boroboro, you state, that you spent, I think it was, the first evening in April, is that correct?

A Yes.

Q Now, calling your attention to Mt. Mandalagan, would that be the general direction that your unit proceeded in?

A Yes.

Q Again calling your attention now to Mt. Mandalagan and noticing three semi-circles with various little lines crossing them -- would that be the general area of the Japanese position when you met with the Takahashi unit?

A Yes.

Q And at these three semi-circles noted on the map as Japanese positions, you met the Takahashi unit there, you state, on the early morning of April 4 or late in the evening, 11:30 or so, on April 3, is that correct?

MR. AITKEN: I don't think he made that statement at all.

MR. WARD: I believe that was the testimony. If it is not, I will gladly withdraw the question.

MR. AITKEN: He said he made contact with the Takahashi unit but not in any position of defense, such as you have outlined here.

MR. WARD: The previous question stated, "Calling your attention to these various semi-circles, is that the place where you met the Takahashi unit?" He said, I believe, "Yes."

COLONEL STICKNEY: But that is the last question.

MR. WARD: The one previous to the last one I asked --

COLONEL STICKNEY: I didn't hear the answer. Do you have it?

MR. AITKEN: My understanding of the testimony has been that he made his contact with the Takahashi unit in the vicinity of Boroboro, which was in the Takahashi area.

(Reporter read the question next to the last and the answer.)

MR. AITKEN: I will withdraw the objection. If he said "Yes," it escaped me.

MR. WARD: Now, read the last question, please.

(Reporter read the last question.)

A Yes.

MR. WARD: At this time I would like this exhibit marked Defense Exhibit D for identification. We have yet Defense Exhibits B and C to introduce into evidence before this one, one of which is to be the map noted by the Major, and I have another exhibit to be introduced before this map will be introduced, but I would like it to be marked for identification.

MR. AITKEN : I object to the offer on the ground that this map is not a properly identified map of this locality. We don't know whether it is a scale map or drawn according to engineering standards or whether it is just a rough delineation of locations. It has lines on it in various ways. For instance, a line passed by Nanjo where he ended in the mountains, etc. -- there is nothing to identify anything of that kind there. This map is not

an official map of any kind at all, nor is it identified by the person who has even drawn the map.

MR. WARD: Counsel misconstrued my statement. I said I want the map marked as People's Exhibit D for identification. I did not ask that the map go in at this time.

MR. AITKEN: I beg your pardon. I didn't hear you say "for identification." I thought you said it was an offer.

MR. WARD: No.

COLONEL STICKNEY: Do we have any Defense Exhibit yet introduced as evidence?

MR. WARD: We have Defense Exhibit A, I believe -- is that right?

MR. SCHAUER: Yes.

COLONEL STICKNEY: Has it been received as evidence?

MR. WARD: Yes.

MR. SCHAUER: Yes, it was withdrawn for the purpose of making the necessary certified copies and those copies have been prepared now, I believe.

COLONEL STICKNEY: But, has the President of the Commission received this in evidence as Defense Exhibit A?

MR. SCHAUER: I believe the record so shows that it was received in evidence.

COLONEL STICKNEY: Do you know in which volume that was so received?

MR. SCHAUER: That was the point I am now checking. When I turned the twelve copies that are necessary into the executive office, they requested the information as to the date it was actually received. I am now in the process of checking for that date.

(At this point there was an off-the-record discussion.)

COLONEL STICKNEY: May the record show that there was an off-record discussion about the minutiae of entering exhibits for purposes of the record. What is next?

MR. WARD: The defense is satisfied with the testimony of this witness and pass it on for the prosecution for recross-examination.

COLONEL STICKNEY: You have no further questions?

MR. WARD: That is correct.

COLONEL STICKNEY: Do you have any questions from this witness?

MR. AITKEN: Yes.

RECROSS-EXAMINATION

BY MR. AITKEN:

Q You testified upon examining the sketched map marked Defense Exhibit D for identification that this map was approximately correct, is that so?

A I believe that is generally accurate.

Q Now, when you refer to its accuracy, you are only referring to the locations of the known places, such as Bacolod, Granada, Boroboro, Concepcion, Talisay, Silay -- isn't that true?

A I looked at the places, such as Bacolod, Bago, Talisay, Silay, Victorias, Saravia and Mt. Mandalagan, and the distance between Bacolod and Mandalagan, and estimated that it was quite accurate.

Q With reference to lines that are marked "water tube" and lines indicating railroad and lines that indicate roads, you don't pretend to know anything about them, do you?

A I went between Bacolod and Granada once. However, I do not know the other roads in the vicinity.

Q You don't know anything at all about the dotted line that is supposed to indicate the road passed by Nanjo, do you?

A I have heard of a road built by the Japanese army for vehicles which went from Granada through Concepcion over a large bridge, over the Imbang River, into the mountains, and when I was in the mountains I also saw this road.

Q Where was Nanjo when you saw him?

A In the positions in the mountains.

Q And that was on the morning of the 4th of April, you say?

A Yes.

Q And what is the distance, do you know, from Bacolod to Mt. Mandalagan, in kilometers?

A I do not know the distance between Bacolod and Mt. Mandalagan. However, I have seen it before with my eyes, the relative distance between Bacolod and Mt. Mandalagan.

Q And can you estimate it?

A You mean a direct line between those two points?

Q Yes.

A I estimate that the distance in a straight line between Bacolod and Mt. Mandalagan is between twenty-five and thirty kilometers.

Q And by road any road that you know of, how long would it be?

MR. WARD: Objection, before you answer that question. On most any map, when you say it is the City of Bacolod, you usually have in mind a certain point or center within that city. In this instance Bacolod is the city or the main city in this part of Occidental Negros and it

covers a reasonably large area. The objection to the question is that Mr. Aitken should specify some particular place. In other words, Granada is a barrio within the City of Bacolod and that would make a considerable difference in the answer the witness might give. Therefore, if Mr. Aitken will specify where in the City of Bacolod he wished his estimate to be based on, the objection of the defense will be withdrawn.

MR. AITKEN: Within the city limits of the Municipality of Bacolod will well define it, just the same as "the streets of Manila" will well define it.

MR. WARD: I again object. It is completely indefinite, both as to any understanding I might have when I have been speaking about the City of Bacolod, by having looked at the map I find it is exceedingly difficult, because in looking at any map you see Barrio Granada, City of Bacolod. It is considerably different in the little area, say, that might be represented by the central market place, City of Bacolod. That would be a point. Otherwise, the other is an undesignated area. Take for example, the City of Los Angeles. If you started to say, "Where from the City of Los Angeles is Bakersfield," you get a variety of answers. If you stated, "From outside the city limits or the outskirts," it would make a difference perhaps of one hundred miles in your answer.

MR. AITKEN: We will take Defense Counsel's own exhibit as a point of reference. It marks Bacolod right on the coastline there on a road.

MR. WARD: Correct. And that was determined --

MR. AITKEN: And it does not include within the circles which indicate Bacolod either Granada, Boroboro, or Concepcion, which we all know. Bacolod and Granada we all know

are within the political jurisdiction of the town of Bacolod, but are not a part of the City of Bacolod. We take the plan itself and I will ask the witness to refer to the plan as is shown there on Exhibit D for identification and ask him the distance by road from the spot indicated on it as Bacolod to the mountain called Mandalagan.

MR. WARD: And the defense again objects, on the ground that the spot as indicated therein should be specified in the question to the witness, either stating, as I wish it to have been, the market place which is a spot recently indicated for the center of the city, or, if he wishes from the seacoast, he may so do. We have large-scale maps and the Commission can take judicial notice thereof, if it wishes to, but for the purposes of the question, counsel can frame it from the seacoast or Bacolod or state a spot, such as indicating a market place. Then there will be something definite on record.

COLONEL STICKNEY: The objection is not sustained.

INTERPRETER NISHIHARA: May I have the question?

Q The roads from Bacolod as shown by this map to Mandalagan.

COLONEL STICKNEY: I think that you have shown by the two concentric circles, is that right?

Q Yes, shown by the two concentric circles.

A I don't know the distance between Granada and Mt. Mandalagan, because I was following the main group of the unit.

Q So, then all you know --

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is still proceeding under the same oath?

(Interpreter Saito so informed the witness.)

Q Did I understand you to say that on your way to Mt. Mandalagan you crossed the Imbang River?

A I have not received such a question yet.

Q I am not trying to confuse you, but I did think that the Imbang River was mentioned in one of your previous answers -- I could be mistaken as to that. Did you mention the Imbang River?

A Yes, I testified that the Imbang River was between the Takahashi unit position and my position.

Q Now, isn't it a fact that when you arrived at Boroboro that was your first contact with the Takahashi unit?

A No.

Q Did you go to the Boroboro garrison when you arrived at Boroboro and camped, say, one kilometer away?

A No.

Q Were there Japanese troops there at the garrison at Boroboro at the time?

A The unit headquarters was at Boroboro garrison and my positions were in front, and my duty was to act as security for the headquarters.

Q You say in front -- between Boroboro and what other place?

A This was facing Granada.

Q Then, you camped between Boroboro and Granada?

A Yes, we were between Boroboro and Granada, we were not very far from unit headquarter.

Q You did not see Lieutenant Nanjo at that time did you?

A No.

Q What you say is that your first contact with Nanjo was when you arrived at your positions at Mt. Mandalagan?

A Yes.

MR. AITKEN: I think that is all.

COLONEL STICKNEY: Anything further?

MR. WARD: Yes, a slight bit.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q Referring to this map again, and indicating the general region of that position shown as Mt. Mandalagan, will you tell us what type of general terrain was in that part of Occidental Negros?

A I just saw the surroundings from the mountains and I did not go around this area. Therefore, I cannot say how complicated the terrain was.

Q To reframe my question -- I mean, was it a reasonably mountainous terrain or reasonably level?

A Since the Imbang River was in the vicinity I am led to believe that there must have been a great deal of mountains.

Q You were not very familiar with the general names, general Filipino names, of the mountains, is that correct?

A No, I am not.

Q And the position designated as Japanese positions on this little map, and entitled "Mt. Mandalagan" would be a position you **would** designate as that position regardless of the name, is that correct?

A I could estimate it to be so.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further?

MR. AITKEN: Nothing further.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q You state that the sketch shown you is a reasonably accurate map of the country?

A Yes, it is generally accurate.

Q Is it generally correct as to directions and distances?

A Yes, I believe so.

Q Calling your attention to the facts that along the road between Talisay and Silay appeared the notation "8 kilometers," along the road, Saravia to Victorias is the legend "4 kilometers," the distance being fully as great as the first distance -- I call your further attention to the fact that about the same distance is the length of the line of the three semi-circles on Mt. Mandalagan. I would like to know if those semi-circles cover a front of four kilometers or eight kilometers?

A To my memory the distance between Talisay and Silay was approximately eight kilometers. However, the distance between Saravia and Victorias was, I believe, a little longer than four kilometers. I know the distance over which our own positions covered, but I do not know how far the positions north of us extended.

Q Have you stated that the three semi-circles on Mt. Mandalagan show the position taken by the Takahashi unit?

A I don't believe that they are the positions of the Takahashi unit. I believe they are the positions of the Japanese forces there.

Q Could you tell whether any part of that position is the position of the Takahashi unit?

A I believe that it is the one further south.

Q The semi-circle further south?

A It is the furthest south, the southernmost one of the three parts.

Q The southernmost of the three semi-circles?

A Yes.

Q Do you read a contoured map?

A Yes.

Q Does the southernmost of the three semi-circles represent the location of the Takahashi unit with respect to the mountains of which four contours are showing on this sketch?

A I can estimate the location of the peak of Mt. Mandalagan and I can also estimate that the positions of the Takahashi unit were the southernmost of these three arcs.

Q Well, was the Takahashi unit along the south end of the ridge and facing west?

A Yes.

Q What was its extent from north to south, the Takahashi unit?

A I cannot say, when I reached there I just saw a portion of the positions there.

Q Would you say that the position shown by that southernmost semi-circle is about the proper distance from Boroboro to represent your twenty-hour march?

A Yes.

Q How far would that be?

A Boroboro was not visible from the mountains, and I cannot say how far it is.

Q If it is eight kilometers from Talisay to Silay, how many kilometers is it from Boroboro to the southern semi-circle shown on Mt. Mandalagan?

MR. WARD: Objection to the specific terrain. Do you mean as to the road they followed or as the crow flies directly. The question will be ambiguous in my mind and probably in that of the witness.

COLONEL STICKNEY: Very well, I will withdraw the question.

Q Is it eight kilometers from Talisay to Silay as the crow flies, or by road?

A When I passed over that area it was quite sometime ago and I do not remember very clearly. However, I believe it was approximately eight kilometers by automobile over a road.

Q And how far would it be from Talisay to Silay as the crow flies?

A I do not know.

Q Could it be four kilometers from Saravia to Victorias as the crow flies?

A I am speaking of distance by road and I would not know of distances as the crow flies.

Q Do you know how far it is on this sketch as the crow flies from Boroboro to the southernmost semi-circle on Mt. Mandalagan?

A As I have stated before, Boroboro was not visible from the positions in the mountains and since the march was at night, I do not know.

Q Do you know that the Takahashi unit area was an area on the west slope of Mt. Mandalagan?

A When we retreated to Mt. Mandalagan I could tell that our positions were on the western side of Mt. Mandalagan and I also knew the Takahashi unit positions were approximately one kilometer south of ours. Therefore, I can believe that it was on the western side. However, I cannot say for sure.

Q Were both positions facing generally west?

A Yes.

Q And were you down below the crest of the ridge?

COLONEL STICKNEY: Are you having trouble with "crest"?

INTERPRETER NISHIHARA: Yes. The terms listed in this dictionary seem rather ambiguous.

COLONEL STICKNEY: I will withdraw that question.

Q Are you sure that your positions were on Mt. Mandalagan?

MR. WARD: Objection. The witness already stated, I believe, that he was not sure of the Filipino names for these various mountains, but the general direction and placement as to the locality were correct. Therefore, the Commission's question, "Are you sure this was Mt. Mandalagan?" would be misquoting the evidence. He did not say he was sure this was Mt. Mandalagan.

COLONEL STICKNEY: He has not said he was sure. I am asking him if he was sure.

MR. WARD: Will you read the last question, please?

(The reporter read the question.)

MR. WARD: That implies the witness stated he was on Mt. Mandalagan. He already testified he did not know the Filipino names.

MR. AITKEN: He testified to the accuracy of the map.

COLONEL STICKNEY: I will withdraw the question.

Q Were you on Mt. Mandalagan?

A From the sketch here, it can be taken to be that this map is on a scale of 300,000 to 1, or smaller, and it is very difficult for me to ascertain the positions. Therefore, I cannot explain in detail the positions on such a small-scale map.

Q With reference to the map, was the position which you took up on Mt. Mandalagan?

A I remember that when we retreated we crossed the peak of Mt. Mandalagan and I remember that our positions were relatively close to the peak.

Q Was your position east of the peak or west of the peak?

A It was to the west.

Q You crossed the peak of Mt. Mandalagan from east to west and took up a position on the west side of the peak, is that correct?

A When we went there from Boroboro, we took up a position north of the Takahashi unit, and when we retreated from Mt. Mandalagan we crossed the peak from west to east.

Q On the 4th of April, 1945, were you on Mt. Mandalagan?

A I was at my position on the west side of Mt. Mandalagan.

Q Are you sure of that?

A Yes.

Q Reading the contours of this map, as you say you can, does that lower semi-circle show the position of the Takahashi unit on that date?

A Yes, I believe so.

Q And with reference to the Takahashi unit, can you explain where on that sketch your position was on the 4th of April, 1945?

A It was at a position approximately one kilometer north of the Takahashi unit positions.

Q Then would the middle semi-circle indicate your position?

A No, I believe that my position was at the northernmost part of the southernmost arc, approximately the position where this line indicating the way passed by Nanjo enters the arc.

Q You say you believe your position was the southernmost part of the northernmost semi-circle? Is that what he said?

MR. WARD: Objection. No. The testimony was that his position was the northernmost part of the southernmost semi-circle, about even with the line indicated on the sketch as the way passed by Nanjo.

COLONEL STICKNEY: I would like to have the reporter read what the witness said.

(The reporter read the last answer.)

Q And that southernmost semi-circle indicates the position both of the Takahashi unit and of the Yamanouye unit, is that correct?

A As I said before, I cannot explain very clearly from this sketch. However, I can estimate that the position indicated by the southernmost arc was the position of the Yamaguchi unit and the Takahashi unit was included within the Yamaguchi unit.

Q The Takahashi unit was the first company of the Yamaguchi battalion, is that correct?

A Yes.

Q This comment just now is the first mention you have made of the Yamaguchi unit on Mt. Mandalagan, is that correct?

A I have not received such a question before.

Q You now say the southernmost semi-circle represents the position occupied by the Yamaguchi unit consisting of his first company, second company, third company, fourth company, heavy weapons company?

A Yes. However, the second company was not there.

Q You commanded the third company on the right, is that right?

INTERPRETER NISHIHARA: On the right of what?

Q On the right of the semi-circle.

There seems to be trouble on that; I will make it on the north.

A Yes.

Q And the first company was on your immediate left, is that right?

A Yes, I was on the northernmost part of our unit and the first company was on the southernmost part.

Q And who was to the south of the first company?

A There were no units there.

Q Where was the fourth company?

A It was between my own company and the first company.

Q And the first company was not on your immediate left, is that correct?

A No.

Q There was a company between, is that right?

A Yes.

Q Now, did the Imbang River flow between your company and the fourth company or between the fourth company and the first company?

A The fourth company and my company took our positions on one hill and the Takahashi unit or the first company took their positions on a hill crossing the Imbang River.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours on the 22nd of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 22 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL)

VOLUME XIV
PAGES 826 TO 892, INCL.

MANILA, P.I.

DATE: 22 October 1946

COPY NO: 1

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
22 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	Japanese
2d LT. TAICHI NISHIHARA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELLONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

/dsh

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM.BY COMM.</u>
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EXHIBITS

Defense Exhibit A

Received

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 22 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the interpreters of Japanese, the reporter, are all present in court. Will you remind the witness that he is proceeding under the oath already administered.

(Interpreter Saito translated to the witness.)

MR. AITKEN: At the close of the last session the witness, Ichiro Yamanouye, was on the stand under recross-examination.

COLONEL STICKNEY: Under redirect examination?

MR. AITKEN: I think I had finished with him. The last notes I have he was being examined, I think by the Commission.

MR. WARD: I believe that is correct, sir.

MR. AITKEN: I think the President of the Commission at the time was re-examining him.

COLONEL STICKNEY: Well, there are no further questions by the Commission.

MR. AITKEN: No further by the prosecution.

COLONEL STICKNEY: Anything further by the defense?

MR. WARD: Yes, sir.

ICHIRO YAMANOUYE

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Saito:

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q I wish to call your attention to this large scale map. Yesterday you were testifying from a sketch and you stated because of the fact it was a sketch that you were unable to make your answers more specific for that reason. Today I have a large scale map, and if the Commission please --

MR. AITKEN: Just a moment, I don't recollect anything in the record where the witness said he was unable to make more specific answers because of the sketch.

MR. WARD: I believe the witness stated at least two or three times when the Commission was asking him questions, that because of the fact -- I think he mentioned 300,000 to one or something to that effect -- that he was unable to make his answer more specific, and two other times upon being asked questions by the Commission, he stated because of the fact it was a sketch he was unable to so do. There is an objection before the Commission.

MR. AITKEN: Well, I don't think it is important. I will withdraw my objection.

MR. WARD: Because of the fact there are very few of these large scale maps, if the Commission please, I would like to put the map on the Commission's table and have the witness testify thereto, which would be a little more easy for the Commission to follow his answers.

COLONEL STICKNEY: Whatever your procedure is, I wish you would keep in mind the difficulties that the reviewing people are going to have in this case.

MR. WARD: In that respect, we can follow that line of procedure for the reviewing authorities by stating specifically on the map the directions, and so forth, we are going. Is it satisfactory with the Commission if the map is put on the table?

COLONEL STICKNEY: Any objection by the prosecution?

MR. AITKEN: No objection.

Q This is the vicinity of Bacolod. (Indicating on the map.) To the southward is Bago, and here is Concepcion, here is Granada. Now, there are two Granadas on this map. Here is Concepcion, you can locate your own vicinity at the time the questions are asked. Now, you stated that you were in the general area of Boroboro, can you point out about where that would be on the map?

MR. WARD: The witness indicated by a small circle a position directly south of Concepcion about a kilometer and a half.

Q Now, from there did you proceed to the mountain you call Mandalagan?

A I did not know where the mountain was because I had never gone there, and I cannot indicate it on this map.

Q Indicating now the Imbang River, you stated yesterday that you met the Takahashi Unit on the mountain on the west side, and that Takahashi Unit and Company 1 was on one side

of the Imbang River, and that your company and Company 4 was on the other. Can you locate that area now on this large scale map?

MR. WARD: The witness indicates three small semi-circles representing the various units I have spoken of at the origin of the Imbang River near the two mountain peaks near the extremities of the ridge. The highest point thereof would be Mount Mandalagan, and the relative distance away from Boroboro, as the crow flies, would be about eight and one-half kilometers eastward.

MR. AITKEN: How far is that north of the latitude line?

MAJOR FRITZ: Two minutes.

Q And at this place, indicating the position of the mountains, is where you saw Lieutenant Nanjo, is that correct?

A I met Nanjo at this point.

MR. WARD: Indicating the southernmost semi-circle which would be just south of the Imbang River. You may cross-examine, Mr. Aitken.

MR. AITKEN: No cross-examination.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q This distance from Concepcion to the point you have shown on the map which was eight and one-half kilometers, as the crow flies, from Boroboro to the position where you saw the accused, that being about eight and one-half kilometers, as the crow flies, you still say that you marched twenty hours to get there?

A Yes.

Q Did you talk about these locations with the defense counsel last night after we adjourned?

A I did not speak to him in particular. However, he showed me this map.

Q Are you still sure that your position was on Mount Mandalagan?

A This area in here is called Mandalagan by the Japanese Army, and I have referred to the positions such as west of Mandalagan and crossing the peak of Mandalagan, using this area as a basis for the testimony.

MR. WARD: Indicating the complete range around Mount Mandalagan as indicated on the map.

Q How far was your position from Mount Mandalagan?

MR. WARD: Objection. Are you referring to the peak, sir?

Q Looking at this map how far was your position from Mount Mandalagan?

A Are you referring to the map, or my estimation when I was in the mountains?

COLONEL STICKNEY: I will withdraw the question.

Q Yesterday you made a statement about crossing the peak of Mount Mandalagan, is that correct?

A Yes.

Q What did you say about crossing the peak?

A I said that I crossed the peak of Mount Mandalagan and that our positions were to the west.

Q When did you say that you crossed the peak of Mount Mandalagan?

MR. WARD: Just a minute. Objection as to the fact. When do you mean, yesterday or what time in the month of April?

Q On what date did you say you crossed the peak?

A I believe that it was about the 16th or 17th of June. At any rate, it was in the middle part of that month.

Q And was that the day that you crossed this 1880 meter elevation? (Indicating)

A Yes.

Q Are you sure of that?

A Yes.

Q Are you as sure of that as you were yesterday of the fact that your position was on Mount Mandalagan?

MR. WARD: Objection. This is both argumentative and has been asked and answered. He has indicated what he meant by Mount Mandalagan, and he indicated the whole range and circling the area marked with a peak on the map. Therefore the question would be purely argumentative.

COLONEL STICKNEY: I will withdraw the question. I have no further questions. That seems to be all for this witness.

MR. WARD: That is right, sir.

MR. AITKEN: That is all.

COLONEL STICKNEY: The witness is excused.

(Witness excused)

MR. WARD: The next witness will be Nakazawa,
No. 85.

MR. AITKEN: What is the name of that witness?

MR. WARD: Nakazawa.

MR. AITKEN: His first name?

MR. WARD: There will have to be a slight preliminary, as to this witness. The next witness in the chain of events naturally would be Captain Takahashi. We put our request in for him, but due to the fact he is at Lupow No. 1 and he is not allowed now because of our administrative rules to stay in our stockade, we have to call him down every day and then take him back, and he has not arrived yet. This witness will have nothing to do with the counts as such. This witness is one of the Japanese that were sitting with the defendant for purposes of identification.

MR. AITKEN: Would you give me the first name of your next witness, Nakazawa?

MR. WARD: I will in just a second. The name is spelled S-a-t-o-r-u N-a-k-a-z-a-w-a.

MAJOR FRITZ: Does he have any rank?

MR. WARD: The rank I have here is mister. However, he is Lieutenant Senior Grade, former Japanese Navy, Imperial.

(Discussion off-record about the arrival of Captain Takahashi.)

MR. SCHAUER: May it please the Commission -- yesterday there was some discussion with regard to Defense Exhibit. The Defense Exhibit A, which is that diagram, illustrating the relative positions of Nanjo, Dizon and Mirivelles with reference to Specification No. 5, I find that in Volume VII the exhibit was marked for identification. It was previously in evidence, then withdrawn from evidence

by the Commission until it had been completely completed. That is, there was still some work to be done on it by the witness. Then in Volume VIII. on Page 515, I read the statement, "With reference to Defense Exhibit A that has been previously considered for purposes of identification, I am going to ask that that be introduced in evidence as Defense Exhibit A, and that the necessary copies of that will be made."

Mr. Aitken then replied with "no objection." However, I don't find any ruling by the court because at that time apparently there was some question about whether the witness was to be kept or excused, and so I don't think it appears in the record that a ruling was actually made on the introduction of that exhibit in evidence.

COLONEL STICKNEY: According to the record then it is still not in evidence?

MR. SCHAUER: There is no ruling in the record, and I believe I stated yesterday there had been a ruling for which I stand corrected.

COLONEL STICKNEY: Would you like a ruling at this time?

MR. SCHAUER: Yes, sir.

COLONEL STICKNEY: Any objection?

MR. AITKEN: No objection.

COLONEL STICKNEY: There being no objection, the document in question is received in evidence and will be marked Defense Exhibit A. (Defense's Exhibit No. 1 received in evidence.)

MR. SCHAUER: May that relate back then, and be attached to Volume VIII, because at the conclusion of Volume

VIII I was -- well, I will say this, the diagram has reference to the testimony of Tibu cio Jonota, which was concluded in Volume VIII, and it was also in Volume VIII I made the motion for its introduction into evidence, but the ruling was not made at that time, and I believe both for the purposes of the Commission and also for the reviewing authorities it would be much easier and also be the proper place for it at the end of Volume VIII.

COLONEL STICKNEY: To save a great deal of record, I think we had better go off the record in this discussion.

(Off-record discussion.)

SATORU NAKAZAWA

a witness for the defense, being first duly sworn, was examined and testified as follows through Interpreters Saito and Nishihara:

COLONEL STICKNEY: I would like to ask the defense counsel if he knows whether or not this man is under Charges.

MR. WARD: This man has not been charged as yet, sir. There is nothing in the questions I will ask him that will relate in any respect to his former place of duty. It is going to be limited strictly to those factors that happened October 9, 1946, in this area.

COLONEL STICKNEY: Those are what your questions are going to be limited to?

MR. WARD: That is correct. Therefore, there is no need to caution this witness as to his ---

COLONEL STICKNEY: It is going to be much simpler if we caution him. I will do so.

MR. WARD: I have not and I don't believe there is any need for it.

COLONEL STICKNEY: Will the interpreter help me with this? I would like to explain to this witness that this Commission is trying the case of the United States versus Masao Nanjo and is trying to get certain facts connected with his operations over a considerable period of time. The defense has called you as a witness in this case and you will be subject to cross-examination by both the prosecution and the members of the Commission. As far as is known, there are no Charges against you and if there were, there is no desire on the part of the

prosecution or the Commission to ask you anything that would incriminate you. Therefore, any questions that are asked that would tend to incriminate you, you are given the privilege of declining to answer.

(Interpreter Saito translated the foregoing to the witness.)

THE WITNESS: I understand.

DIRECT EXAMINATION

BY MR. WARD:

Q Your name is Satoru Nakazawa, is that correct?

A That is correct.

Q Your present residence is in the High Commissioner's Stockade, is that right?

A That is correct.

Q Calling your attention to October 9, 1946, at approximately 8 o'clock in the morning, did you have occasion to be walking toward Courtroom No. 3 with Mr. Torao Kondo, the defendant Masao Nanjo, Mr. Yoshio Takahashi, and two MP guards?

A I remember.

Q Did you have occasion to see a truck pull up at the side of the High Commissioner's Residence?

A Yes, I recall it.

Q Did you see any people get out of the truck?

A I believe they were on the truck.

Q Will you describe to the Court what you saw these people do, if anything, that seemed to you unusual?

MR. AITKEN: I am going to object to part of that question, at least. That "seemed to you unusual" is calling

for a conclusion of the witness. Ask him what he saw.

MR. WARD: I will withdraw the question.

Q Did those people you saw on the truck seem to be cognizant of your presence -- that is, yourself and the group of which you were a member?

A Yes, they were looking at us.

Q Will you tell the Commission what these people did and cite their actions, to the best of your ability.

A There were about ten or more men and women watching us pass. The distance was about fifteen to sixteen meters. They were Filipinos. At that time Nanjo said, "Those are my witnesses."

MR. AITKEN: I object to any statement Nanjo made to him at the time.

MR. WARD: Hearsay is perfectly admissible in this Court. I think we have gone into that time and time again.

COLONEL STICKNEY: Do you wish to argue your objection?

MR. AITKEN: I will withdraw it.

A (Continued) "Even if they do not know me, perhaps two or three of them might know me and they would point out me and by that everyone in the truck would know who Nanjo was." I told this to Takahashi. At that time, however, I did not see the Filipinos point.

MR. AITKEN: I move that all of that part of the statement of this witness that was attributed to Nanjo be stricken as just a purely self-serving statement made at the time and incompetent as evidence at this time.

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MR. AITKEN: I move that all of that part of the statement of this witness that was attributed to Nanjo be stricken as just a purely self-serving statement made at the time and incompetent as evidence at this time.

MR. WARD: There is nothing incompetent at all. What the witness is stating are facts, just as any other fact before the Court, just as any other fact the witnesses have testified when they said: "Captain Nanjo grabbed his sword with both hands, said 'Kura!', the soldiers said: 'Ho.'" This is the same sort of fact. He said that Captain Nanjo was walking by and he saw what was happening at the truck, as is being explained now, and he made a statement. That statement is a fact, be it self-serving or anything else, it is a fact. It was said. This witness so testifies. Therefore, it is part of the facts that can be recorded and hearsay is not objectionable in this court under SCAP rules.

MR. AITKEN: Furthermore, it is incompetent testimony.

MR. WARD: It is very competent -- the identity of the --- I withdraw that statement. Did you say "incompetent"?

MR. AITKEN: Right.

MR. WARD: I would like counsel to define what he means by "incompetent." I thought anything before the Court was received for its probative value.

MR. AITKEN: Because any self-serving statement made for the purpose of helping him along in a particular case existing at that time which is not a part of any res gestae or anything of that kind is incompetent.

MR. WARD: Under SCAP rules I was under the impression that nothing was incompetent. Anything could be admitted for its probative value. "Incompetent" to

my meager learning of law means that evidence may be kept out because some ruling of law states it is not competent evidence to go before the Court. In other words, it is not admissible on those grounds. The SCAP rules completely set aside that objection. However, this is competent testimony, if counsel wishes to argue the point. The identity of the defendant is very material in this instance. Our proof is showing now and is going to show more in the future that this defendant was not present. But these various witnesses have taken the stand and one witness has admitted pointing out the defendant. What was said at that time goes to explain the emotions and actions of this group walking toward the stockade and goes to explain the actions of the witnesses against this defendant as they got off the truck or were in this truck in this instance.

MR. AITKEN: No witness admitted pointing out the defendant. The only testimony was the witness sat alongside the driver and said to the driver, "That is Nanjo." And the people were out of the truck at the time it was said. If the statement was made, I won't say it was, for the purpose of giving the Commission the impression that the witness admitted pointing out Nanjo to the other witnesses there, it is a misleading statement, to say the very least.

COLONEL STICKNEY: The motion is denied. The answer will be received for such probative value as it may have. I believe you were in the middle of something or had you finished?

MR. AITKEN: I had finished my motion to strike out part of the answer, indicating that part of the answer as to what Nanjo had said.

COLONEL STICKNEY: We know what your motion was. I am going to ask the interpreter: Had you finished?

INTERPRETER NISHIHARA: Yes, sir.

MR. WARD: One more question to the interpreter: Your last statement had not pointed Nanjo out as yet, is that correct?

INTERPRETER NISHIHARA: "At the time, however, I did not see the Filipinos point." (At this point the witness spoke to the interpreter.) Correction on that: "I have no memory of seeing the Filipinos point."

Q But it was obvious at that time that the Filipino witnesses were talking about your group, is that correct?

MR. AITKEN: That is objected to as calling for a conclusion of the witness and also as suggesting the answer, being unduly leading.

MR. WARD: If the Commission please, that was merely a review of the former question.

COLONEL STICKNEY: The objection is sustained.

Q From what motions or actions of the witnesses could you tell whether or not they were talking about your group and please explain your answer.

MR. AITKEN: That is objected to as leading and suggestive and also assuming that there were motions and statements made by them which indicated they were talking about somebody.

MR. WARD: The witness has testified they were talking. I asked, if the question will be reframed -- I don't think counsel listened completely when he made the objection. I asked if they made motions, whether or not there were motions, explain what they were so that he can give the Court a word picture of what these witnesses were doing. There is nothing leading about it. I am merely asking him to explain what the witnesses were doing.

COLONEL STICKNEY: Will the reporter read the question?

(The reporter read the question.)

COLONEL STICKNEY: The objection is sustained.

MR. WARD: You may cross-examine.

MR. AITKEN: No cross-examination.

COLONEL STICKNEY: Questions by the Commission?
There seem to be none. The witness is excused.

(Witness excused.)

MR. WARD: Yoshio Takahashi.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

YOSHIO TAKAHASHI

a witness for the defense, after having been duly sworn,
testified as follows through Interpreters Nishihara and
Saito:

DIRECT EXAMINATION

BY MR. WARD:

Q Your name is Yoshio Takahashi?

A Yes, sir, and just a minute, please, at this time
can I ask permission to testify in Japanese because Nanjo
wanted to know everything about the conversation?

COLONEL STICKNEY: I see no objection.

MR. AITKEN: I have no objection. He can be
his own interpreter as far as we are concerned.

MR. WARD: Would it be satisfactory then, if he
testified in English and translated to Japanese for Nanjo?

COLONEL STICKNEY: I think perhaps the better
thing to do would be to have our official translators
translate into English for your interpreter and for us.

Q Your present residence is the High Commissioner's
Stockade, is that correct?

A Yes.

Q Calling your attention to October 9, about 8 o'clock
in the morning, did you have occasion to be walking past
the High Commissioner's Residence in the direction of
Courtroom No. 3 in that area?

INTERPRETER NISHIHARA: Shall I interpret
into Japanese for him?

COLONEL STICKNEY: Yes.

A Yes.

COLONEL STICKNEY: I think perhaps both the official interpreter and the personal interpreter had better talk loud enough so that the accused hears every word of Japanese.

Q Did you have occasion to see a truck pull up at the side entrance of the High Commissioner's building?

A We had just rounded the first turn of the stockade here at the High Commissioner's Residence, and we had occasion to see a truck pull up at the north entrance.

Q Are you acquainted with the truck that brings the Filipino witnesses from the OCCW to the High Commissioner's Residence?

A I did not know at that time whether that truck was from the OCCW. However, I did see twelve or thirteen Filipinos who had just gotten off the truck, and I believe there were some still on it.

Q Have you had occasion to see the various witnesses that testified against Lieutenant Nanjo in this trial?

A I was here during the entire course of the trial and I did see them.

Q To your best recollection, do you remember if any of the persons in or about the truck previously mentioned were subsequently witnesses in the trial against Lieutenant Nanjo?

A I remember one very clearly.

Q And the name of that one?

A Mrs. Beter.

Q About how far from the truck were you as she passed?

A I believe from twelve or thirteen to fifteen meters.

Q Could you tell if the presence of yourself and your companions attracted the attention of the Filipinos on or about the truck?

A I believe that their attention was centered upon us, and I believe that all of them were looking at us.

Q Will you describe how you believe they were talking about you, by describing the various actions and motions of these witnesses as you remember them?

MR. AITKEN: By describing the what?

MR. WARD: Various acts or motions of the witnesses as you saw them.

MR. AITKEN: I object to the question. Had it stopped period just before the words "by describing" it would have been a proper question, I think, but when you say by describing the various acts and motions you assume that there were acts and motions made which may or may not be made. You are telling the witness, you are indicating to the witness the answer to tell the Court that he pointed or made motions, and the question is improper for that reason.

MR. WARD: I am merely assuming, and I think it is right, that these people did not stand like statues when the Japanese were walking by. They were making motions, whether they were making motions or moving in the direction of the High Commissioner's Residence, or the direction of Nanjo I have no way of knowing, but ---

COLONEL STICKNEY: Slow down just a minute. I don't think the reporter got that. As I understood, you said, whether they were making motions or were moving toward the High Commissioner's Residence or in another direction, is that right?

MR. WARD: That makes better sense.

COLONEL STICKNEY: I think you had better talk slower.

MR. WARD: I have no way of knowing, but it is a certainty that they were not all standing absolutely motionless during the period that these various Japanese walked by. The motions of this group is the testimony I am after. Hence, certainly counsel's objection, the fact that I am assuming that they moved, is something the Court can take notice of because these people did not stand perfectly motionless for any period of time.

COLONEL STICKNEY: Will the reporter read the portion of the question, up to the last phrase which was objected to?

(THE REPORTER: "Will you describe how you believe they were talking about you by describing the various actions --")

MR. AITKEN: The point I make is if a period were put after "you" it would be a proper question, but the rest is telling them.

MR. WARD: I am not pointing out what I want him to testify to.

COLONEL STICKNEY: The objection is sustained.

Q What did these people do and say?

A I could not hear their conversation at all. However, from their actions I believe that they were talking about us.

Q Will you describe those actions?

MR. AITKEN: Just a moment, I am going to move to strike out the answer on the ground that it is mere assumption.

COLONEL STICKNEY: The motion is denied and the reply will remain for such probative value as it may have.

Q Will you describe these actions?

A I did not see them indicate any one of us. However, their eyes were following us and I believe from this that they were speaking of us.

Q You mentioned specifically Mrs. Beter. Do you know without associating necessarily name and face, whether any of the other witnesses against Lieutenant Nanjo were present in this group?

MR. AITKEN: I did not hear the last part of it.

MR. WARD: Were present in this group?

COLONEL STICKNEY: Would you like the reporter to read the question?

MR. AITKEN: Please.

(Question read by reporter.)

A At that time Mrs. Beter had on a pair of eye glasses. I remember this because there are very few Filipino women wearing glasses, and this gave me a very strong impression. However, of the others there I could not make any connection

between their names and faces. Among them there were old women and from their clothes I assumed that they might have been witnesses in Nanjo's case.

Q At that time was there any conversation between yourself and the defendant, Lieutenant Nanjo?

MR. AITKEN: Just a minute. Objection to it as incompetent, irrelevant, and immaterial. Any conversation between him and the accused can't have any affect or weight in any way at all or materiality with reference to the actions of these prisoners or what they did or said.

MR. WARD: You were just arguing a minute ago and conversation at this time would be relative as to their impression of what these witnesses were doing. And the Commission just decided a minute ago when the witness was on the stand, and it was admitted for probative value.

MR. AITKEN: Their impressions are not admitted in this case.

MR. WARD: No, but their conversations would be in the conversation we are getting at and the impression would be derived from the conversation. The conversation was a fact.

MR. AITKEN: I am referring to the impression of Nanjo, or this witness, not the impression of the other witnesses.

COLONEL STICKNEY: The objection is not sustained.

A Yes, there was.

Q Will you please relate them?

MR. AITKEN: Same objection.

COLONEL STICKNEY: The objection is not sustained.

A First he said, "There are those among them who know me, they are probably my witnesses." Second, "They must be talking of me, and if they are," there were four of us at that time, "they must be talking of which one of us is Nanjo. If they do such a thing, the credibility of the identification of me in court would be very poor. I want you to relate this matter to the defense counsel."

Q You state you were four -- that is, were the other people present: Tarao Kondo, Mr. Satoru Nakazawa, the defendant, and yourself, is that correct?

A Yes.

Q And two M.P. guards?

A Yes.

MR. WARD: No further questions.

COLONEL STICKNEY: Cross-examination?

MR. AITKEN: Yes.

CROSS-EXAMINATION

BY MR. AITKEN:

Q You have been the personal interpreter of the defendant from the beginning of this case right up-to-date, have you not?

A Yes.

Q And as such assisting in his defense, is that true?

A Yes.

Q And the most impression that you received at the time of this incident of the truck as to what those on the truck knew, you received from what Nanjo told you he thought they were saying at the time, is that true?

A This strong impression left on me of Mrs. Beter was not because of my conversation held with Nanjo, but from the eyeglasses.

Q What you mean by that is because Mrs. Beter wore eyeglasses she had left a stronger impression on you in regard to her than anything else?

A Yes, the fact that she wore glasses remained with me very strongly and in court Nanjo also said he knew Mrs. Beter.

Q How many people would you say were aboard that truck when it came up to the Commissioner's residence?

A I am not sure how many were on the truck -- I believe three or four--and those on the ground numbered approximately ten.

Q Fourteen altogether, more or less?

A Yes.

Q Did you know that that truck carried witnesses from the OCCW Camp who were witnesses in other cases, as well as the Nanjo case?

A At that time I did not even know that the truck was from the OCCW, nor that all the people there were witnesses in the Nanjo case. I found out later that there were among them a witness in this case.

Q One witness or more?

A The only one I remember for sure is Mrs. Beter.

MR. AITKEN: That is all.

COLONEL STICKNEY: Redirect examination?

MR. WARD: No further questions.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Were the four of you Japanese marching in a military formation?

A We were in a column of two's. Kondo and Nakazawa were in front, but Nanjo and myself and the two M.P. guards in the rear.

Q And did Nanjo do his talking loud enough for the men in front to hear?

A We were all quite close together and I believe that the men in front also heard.

HS(4)mvm

Q Do you know whether or not Nakazawa heard?

A I did not hear from Nakazawa whether he did or not. However, he was as close to Nanjo as I was and I believe he heard.

Q Did you hear Nakazawa on the stand this morning state under oath that he did hear?

A Yes, I heard that in this courtroom.

Q Were there any orders about keeping silent during this march that the four of you were on, or were you permitted to converse?

INTERPRETER NISIHARA: Do you mean from the stockade to the courtroom?

COLONEL STICKNEY: Yes, from the stockade to the courtroom.

A I have never received such an order. I believe that the personal interpreter and the accused can speak anytime outside of the stockade.

Q What was the purpose of Nakazawa being in that formation?

A He was there with the accused to test the credibility of the prosecution's witnesses, as to the identification of the accused.

Q Nanjo, by delivering this rather long speech loud enough for Nakazawa to hear, attracted more attention toward himself than he needed to, did he not?

A I do not believe that Nanjo spoke loud enough so as to attract any undue attention. However, I remember that he spoke loud enough so that I could hear.

BY MAJOR FRITZ:

Q You stated that Lieutenant Nanjo made the statement, "There are those among them who know me." Did Lieutenant Nanjo say how many Filipino civilians he knew in the group standing beside the truck?

A He did not say how many of them knew him. However, he did say that Mrs. Beter knew him.

Q Is that the only name he mentioned?

A Yes. That was the only one I heard.

Q Did you see anyone in the cab of the truck?

A My memory is not very clear, but I believe there was.

Q Did you recognize that person?

A No, I have no recollection.

Q Did he say that Mrs. Beter knew him or did he say that the woman with the glasses knew him?

A He said that "The woman with the glasses is Mrs. Beter and she knows me well and I know her well."

BY MAJOR HERR:

Q Did Mrs. Beter speak to the defendant during the time you passed on the 9th of October?

A She did not say anything to us and we did not say anything to her.

Q COLONEL STICKNEY: Anything further?

MR. WARD: One question.

REDIRECT EXAMINATION

BY MR. WARD:

Q Did you have occasion to know which direction any of the witness subsequently took after they left the truck?

A I do not know.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: Witness is excused.

(Witness excused)

MR. WARD: Defense calls Soledad Pastrano. I believe you will find her in the defense counsel's room.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: The defense has called a new witness.

SOLIDAD PASTRANO

a witness for the defense, being first duly sworn,
testified as follows through Interpreters Belaong and Genoves:

DIRECT EXAMINATION

MR. WARD: For the Commission's information, this witness can understand a little bit of English, but I personally have talked to her in English and have found that I had a great deal of difficulty understanding her answers and sometimes she did not get my question. Her accent is very obvious. I asked her and she said she preferred to speak in Visayan because she would understand the questions better and certainly could give a more lucid answer.

BY MR. WARD:

Q Your name is Solidad Pastrano?

A Yes.

Q And you reside where?

A At Bacolod.

Q That is Bacolod City, Occidental Negros?

A In the city.

Q I wish to call your attention to the gentleman sitting here -- indicating the defendant -- and ask if you have seen him before and/or if you know him?

A Yes, I know him. He is Lieutenant Nanjo.

Q When was the last time you saw him?

A In 1945 I saw him.

Q And where did you see him at that time?

A At the hospital.

Q This hospital is located in Bacolod City, is that correct?

A In the provincial hospital.

Q Calling your attention to December 8, 1944, did you have occasion to see the defendant on or about that time?

A I saw him at the hospital.

Q Will you tell the Commission what events transpired just prior to your seeing Lieutenant Nanjo in the hospital at Bacolod City?

A On December 8, that day was the birthday of my daughter.

MR. AITKEN: Of my what?

INTERPRETER BELAONG: "Of my daughter."

MR. WARD: The birthday?

INTERPRETER BELAONG: "The birthday of my daughter."

A (Continued) And then at the restaurant I had in Bacolod one of the Japanese boys of Lieutenant Nanjo went to my place to buy viands. And that Japanese boy of Lieutenant Nanjo told me that Lieutenant Nanjo was in the hospital. I asked why he was in the hospital at that time, and that Japanese boy answered "that Lieutenant Nanjo was hit by a bullet on the leg."

MR. WARD: Is that all?

INTERPRETER BELAONG: There is no more.

Q And what time of the day did this boy of Captain Nanjo see you in your restaurant in Bacolod City?

A 8 o'clock in the morning.

Q At about what time of the day?

A About 8 o'clock in the morning.

Q At about what time of day did you have occasion to see Captain Nanjo in the hospital, personally?

A 3 o'clock in the afternoon.

Q Did this boy state when Captain Nanjo had been injured?

A This boy told me.

Q When did he say Captain Nanjo had been injured?

A When he went to my restaurant about 8 o'clock in the morning.

Q Did the boy state what day Captain Nanjo had been injured?

A That boy stated "he was hit about daybreak this morning in Murcia."

MAJOR FRITZ: Will the reporter please read that answer? I did not get it.

(Last answer read by reporter.)

Q Did you have occasion to see Lieutenant Nanjo on or about Christmas, that is, December 25, 1944?

A Yes, he was still at the hospital at that time.

When I was there at the hospital we were overcame by the raid and we had to hide.

MR. WARD: That last answer was, "We were overcame" by the what?

INTERPRETER BELAONG: We were overcome by the raid and we had to hide.

MR. AITKEN: And to hide?

INTERPRETER BELAONG: That last one should be "We were overtaken by a raid and we had to hide."

MR. AITKEN: Raid or rain?

INTERPRETER BELAONG: A raid, air raid.

Q Did you have occasion to see Lieutenant Nanjo on that day either before or after the air raid?

A I saw him at the hospital that day.

Q Was he in bed or was he walking around?

A ✓ He was sitting.

Q Did you have occasion to see him subsequent to Christmas 1944, that is, some period in January or February of 1945?

A I have not seen him any more, but he was still sending somebody to my restaurant to buy viands.

Q During what period were these people coming to your restaurant to buy viands in 1945?

A I cannot recall the period. At times, when his boy was at the restaurant to buy something, I was not present. At times, only my waitresses would attend to the purchase of the boy.

Q Calling your attention to about the 31st of January 1945, did you have occasion to see Captain Nanjo at that time?

A Because of the air raid it was hard for me to go out, so I was not able to see him since then, as they said he and his men marched out of the city.

Q ✓ Calling your attention to December 8th again, when you first saw Captain, Lieutenant Nanjo, did you notice whether or not he was wearing any bandages?

A Yes, I could recall that he had some bandages on.

Q Will you please indicate where those bandages were?

A It seems to me that he had bandages on his leg (indicated by the witness on the right).

MR. WARD: Right calf.

A (Continued) But I am not so sure now whether it was that right leg or not. Aside from that he had some scratches on his face.

Q To the best of your memory, what was the last day you saw Lieutenant Nanjo in the hospital?

✓ A After the 25th of December, I was not able to go to the hospital any more because we were afraid of the air raids.

Q And subsequent to that time, you stated Captain Nanjo's boy or boys came to your restaurant to get viands for him, is that correct?

MR. AITKEN: Now, objection to the repetition of the question. It is a leading question to begin with and it is cross-examination of his own witness. Now, she has already made that statement.

MR. WARD: That is the last question the defense is going to ask. It was a matter of clearing the record as to when these boys came for the viands.

COLONEL STICKNEY: Objection sustained.

MR. WARD: The defense rests with this witness.

CROSS-EXAMINATION

BY MR. AITKEN:

Q When did you first meet Lieutenant Nanjo?

A It was about two years ago.

Q What date -- three years ago?

A Two years ago.

Q About what date?

✓ A I cannot recall the date, but so far since Colonel Fokuda was replaced by Colonel Yamaguchi, Lieutenant Nanjo was under the later officer.

Q What year was that?

✓ A That was in 1942.

Q And did you meet Nanjo in 1942?

✓ A I think I met him first in 1943, because that was only on the occasion when Fokuda was replaced.

Q What month of 1943?

A I cannot remember because that was long ago.

Q Well, was it the first part of 1943, or the middle, or the end?

A I believe it was around the latter part of the year.

Q What was Lieutenant Nanjo doing at that time, where was he stationed?

A He was Lieutenant at that time, and he was assigned to Bacolod Central.

Q At Bacolod Central. And how long did he stay at the Bacolod Central?

A I cannot tell how long he stayed in Bacolod Central. At times he was around my place to buy things, and those are not very frequent occasions when I could see him.

Q How long did he stay in Bacolod Central?

MR. WARD: Objection. I think it was just asked and answered by the last question.

COLONEL STICKNEY: Will the reporter read the last two questions?

MR. AITKEN: I will reframe the questions.

COLONEL STICKNEY: Very well.

Q Until what time did he remain at Bacolod Central?

MR. WARD: Same objection.

MR. AITKEN: No, it is not. The other was "how long he was there."

MR. WARD: Well, it amounts to the same thing. The question, now, three questions ago covered the same data.

COLONEL STICKNEY: The objection is not sustained.

A He was there until the time when he was transferred to the Boroboro garrison.

Q Have you any idea when that was?

A I cannot tell now because I have many attentions on the other phase of my livelihood.

Q Was it in 1944 -- 1945?

A I cannot now recall when was that, because I had many things to attend to. Aside from my restaurant I had my bar, I was always busy.

MR. AITKEN: And in English I think she said "I am very busy," didn't she?

INTERPRETER BELAONG: "I was very busy." Yes.

Q Do you remember when he came back from Boroboro?

A I cannot remember now because at times he would drop around the restaurant and eat and then get away, so I could not tell definitely the date or the period.

Q Now, prior to him going to Boroboro, how often did you see him?

A Do you mean Lieutenant Nanjo?

Q Yes.

A Every Sunday he went to Bacolod.

Q And did he visit you?

A Yes, he went to my restaurant.

Q Did you ever visit him?

A At Boroboro I didn't.

MR. AITKEN: I did?

INTERPRETER BELAONG: I didn't.

Q But in Bacolod, did you?

A How could I visit because I was very busy.

Q How many children have you?

MR. WARD: Objection. This is entirely irrelevant, immaterial. It is completely without the scope of the direct examination and I can see no relevancy as to this restaurant owner seeing the defendant in the hospital October 8, 1945, and how many children she has.

COLONEL STICKNEY: Do I understand it was on October 8, 1945?

MR. WARD: December 8th. Excuse me.

COLONEL STICKNEY: 1945?

MR. WARD: 1944. And how many children she has -- in fact, I have been allowing these questions going way back into 1943 and the fact that the defendant dropped into the restaurant every Sunday --

COLONEL STICKNEY: I believe you brought out yourself the birthday of one of the children, and your objection is not sustained.

A Five.

Q Do you remember the birthdays of each of those five?

A As I have only one daughter and four boys I could remember very well the birthday of my daughter, and she is the only child in which we celebrate her birthday.

Q But the birthday of the four boys you don't remember at all?

MR. WARD: Objection again. It is argumentative and it has been asked and answered and is also immaterial.

MR. AITKEN: I am entitled to bring out everything I can with reference to testing her memory. I don't have to do it along lines indicated by the defense counsel. I have

a right to cross-examine, as well as the defense counsel has.

MR. WARD: I certainly agree with that, and if I recall correctly we were talking about Gil Tanique and the birthday of his child, and if I remember right it was February 8, 1945, and we started to cross-examine on the birthday of that child, because that is how he remembered that date, and counsel objected and was sustained. We are allowing cross-examining on the birthday of the girl, but as to the cross-examination of the birthday of the four boys, it is entirely immaterial.

COLONEL STICKNEY: Objection is not sustained.

A I do not celebrate the birthdays of my four boys. As I say, I only celebrate the birthday of my daughter, because she is the pet of my family.

Q How old is your daughter?

A Ten years old.

Q And was it your statement that her birthday is December 8th?

A As she was born December 8th, so we celebrate her birthday every year on December 8th.

Q Do you have a Fe de Bautismo for your daughter? It is a birth certificate.

A I do not know if I could still secure her birth certificate. Because of the war the one we had was probably lost, but I could remember very well that date, for I had prayed to God that if ever I could have a daughter I shall always celebrate her birthday.

Q Was your house destroyed during the war?

MR. WARD: Objection again. I can't for the life

of me understand the materiality of counsel's questions.
We object on the ground they are immaterial.

MR. AITKEN: I want to know a little bit more about the loss of this Fe de Bautismo. We may want to look it up.

MR. WARD: I assume down in Bacolod they have a recorder's office, which would be the best evidence of the birth of the child. This would be merely secondary evidence and he has certainly competent means of doing so.

COLONEL STICKNEY: The testimony has already covered certain war-time losses, and the objection is not sustained.

A My house was not destroyed, but it was looted.

Q Looted by the Japanese?

A When the liberation came I found my house looted, I think, by the civilians, because at that time the Japanese were already in the mountains.

Q Where were you at the time it was looted?

MR. WARD: Objection again. Where she was at the time her house was looted would again be immaterial.

COLONEL STICKNEY: Objection is not sustained.

A We were in the air raid shelter at that time, and the distance of our air raid shelter from the house was about twenty both arms length.

Q And you want to convey the idea then that while you were in the air raid shelter at that time civilians looted your house?

A Yes.

Q And what was the date of that?

A When the Americans landed at Sumag, and at that time there was shelling.

Q What was the date of this looting when you were in the air raid shelter?

A I think that was in the month of April. I could not ascertain the date, because at that time there were air raids and we were in our shelter.

Q When you first saw Captain Nanjo in the hospital, was he lying down or sitting up?

MR. WARD: Objection, as to the specification of the date. She has mentioned several dates now -- the 25th, I believe, she saw him and on the 8th of December she saw him. If counsel will specify the date, we will withdraw our objection.

MR. AITKEN: I mentioned the first time she saw him in the hospital.

MR. WARD: I wish the date to be specified.

COLONEL STICKNEY: Will the reporter read the question?

(Reporter read the question.)

COLONEL STICKNEY: The objection is not sustained.

X A On the 8th day of December, when I went to the hospital, he was lying in bed and he was unconscious.

Q How long did you stay there?

✓ A On the 25th of December I also visited him and gave him some gifts.

Q How long did you stay there on the first visit on the 8th?

A You mean the first time I visited him?

Q Yes, in the hospital.

A I could not tell whether we stayed there for about half an hour or not, because the hospital at that time was busy and they sent us out.

Q When you came in to visit him, did they allow you into his room where he was lying?

A Yes, I was allowed.

Q Were you informed how long he had been unconscious when you arrived there?

A You mean on the 8th?

Q Yes.

A He was hit in the morning and I visited him in the afternoon.

Q And you say when you arrived there he was unconscious, is that right?

A When I arrived there he was sleeping with his eyes closed and the doctor did not want him to be awakened.

Q So you waited there for about half an hour and then left?

A We did not stay long there. We immediately went home.

Q Did you examine his leg at the time that you noticed it was bandaged?

A We didn't. We were only looking towards him, where he was lying in bed, but I could not even ascertain now what part of his leg had a bandage on.

Q Did you see any bandage at all?

A Yes, I saw a bandage on his leg.

Q Was his body covered with a blanket or sheet at the time?

A He had a blanket on his body, but his leg was exposed.

Q Who was with you at the time?

A I went with my waitress.

Q Who was the waitress?

A I cannot now recall the name of that waitress with me.

Q How long had that waitress been working with you?

A There were others who stayed with me for a year, others for six months.

Q I am referring to the one who accompanied you to the hospital.

A I cannot now tell how long she stayed with me.

Q Do you know when she ceased to work for you?

A She ceased to work when the liberation came.

Q Do you know whether she still lives in Bacolod?

A She is from Dumaguete.

Q Now, after the 8th of December, when you made this first visit to Captain Nanjo, and you found him asleep, did you go back there the next day?

A I did not come back any more.

Q Did you go back there on the 25th?

A On the 25th I went back to the hospital.

Q Was he asleep that time when you got there?

A He was awake and he was sitting at the time.

Q Is that when you first knew how he received his injury?

A Yes, because I asked him.

Q Was he sitting in the chair or sitting up in bed?

A He was sitting on his bed.

Q Do you know whether he was able to walk?

A I think he was able to walk, because at the time he was

sitting on his bed.

Q Did you go there to bring him some gifts at that time?

A Yes, a Christmas gift.

Q Who went with you that time, if anybody?

A I was with Pastora, who was from Zamboangita, but now she is no longer with me.

Q Where is she now?

A When she left, I did not know where she went.

Q Was she a friend of yours at that time, or a friend of Captain Nanjo's?

A She was also the friend of Captain Nanjo.

Q You were very friendly with Captain Nanjo, were you at that time?

A You mean during the Japanese time?

Q Yes.

A Yes.

COLONEL STICKNEY: The Commission will take a recess and will reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

The Commission met, pursuant to recess, at 1300 hours.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all of the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, assigned interpreters, the reporter are all present in court.

Will you remind the witness that she is still proceeding under the oath already administered?

(Interpreter Belaong so informed the witness.)

SOLIDAD PASTRANO

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Belaong and Genoves:

CROSS-EXAMINATION (Cont'd.)

BY MR. AITKEN:

Q I think you stated at the end of the last session that you got to be quite friendly with Captain Nanjo, is that true?

A No, I did not say that.

Q You mean you were not quite friendly with Captain Nanjo?

MR. WARD: Objection. That is entirely misquoting the evidence and misquoting her last answer. He can ask a correct question on cross-examination, but he cannot misquote either the evidence to the witness or the testimony back to the witness, nor can he make substitutions that are not present.

COLONEL STICKNEY: Objection sustained.

Q You stated before that Captain Nanjo had, after he was stationed at Boroboro, made a visit practically every Sunday to Bacolod. Did you see him when he made those weekly visits?

MR. WARD: Objection again. I believe if these statements are read back, she stated she saw him the Sundays he was in Bacolod, not that he came to Bacolod every Sunday. I believe the testimony was of that nature, and this would be misquoting it. I have no objection if the original question with regard to Captain Nanjo's trips to Bacolod should be reasked again, as we have a different reporter here now.

COLONEL STICKNEY: I have a note here, "every Sunday" in my notes. They are not the official notes, but they are notes I took down as we went along.

MR. WARD: It may be that I misconstrued the evidence about that, but I was under the impression it was not every Sunday but --

COLONEL STICKNEY: We can read back if we want to. My notes, which are not the official notes, are that he went "to my restaurant every Sunday."

MR. WARD: While he was in Bacolod, or at Boroboro?

COLONEL STICKNEY: That does not appear in my notes.

MR. WARD: I have no objection to the question being started over again in that respect.

MR. AITKEN: As a matter of fact, the testimony in my recollection, which is as good as counsel for the defense, is that she said that, but I have no objection to reframing the question.

Q Do you remember the period of time when Captain Nanjo was stationed at Boroboro?

A I do not know.

Q I am not asking if you remember the dates, but I am asking you if you remember that there was a period of time when he was stationed at Boroboro?

A I do not know the date or the time how long he had been in Boroboro, but I know that he had been stationed at Boroboro.

Q Now, can you approximate as to whether he was there one month, two months, six months, or more?

A I cannot tell how long he had been approximately at Boroboro. At the times that he was around in Bacolod there, only people would say that Captain Nanjo was in Bacolod, that he was the Captain of Boroboro. At times these people are changed over from one station to another, going from Bacolod, then going to Boroboro and back again.

Q And did you know that there was a time when Captain Nanjo had change of station from Bacolod to Boroboro?

A Yes.

Q Now, have you any recollection of how long he was stationed there at Boroboro, without reference to dates?

A I cannot tell because I am very busy with my business transactions.

Q Do you know whether it was one month, or six months?

A I cannot say about how long, but one thing I know, that he had been at Boroboro.

Q Did you state that during his station at Boroboro, that he made weekly visits on Sundays to Bacolod?

A At times some Sundays he went to Bacolod for a visit or rest.

COLONEL STICKNEY: Will the reporter read that back?

A (Continued) And when there at Bacolod they ate at my restaurant and had some drinks.

(Complete answer read by reporter.)

Q Who used to accompany him to your restaurant?

A His soldiers.

Q By the way, what is your daughter's name?

A Milagros Toledanes.

INTERPRETER BELAONG: M-i-l-a-g-r-o-s

T-o-l-e-d-a-n-e-s.

Q Now, you stated you visited him again on 25 December, at the hospital, and that that was the time when you first learned from him the nature of his wound, is that correct?

A Yes.

Q What was this hospital, a military hospital, or a civilian hospital?

A It was a provincial hospital.

Q Did you visit others at the hospital at that time?

A I visited a lot of people there.

Q Can you tell us some of those you visited?

MR. WARD: Objection at this time, unless it is to the specific dates, either December 8 or --

MR. AITKEN: 25 of December, I gave her the date.

MR. WARD: On Christmas, the one you visited is the question?

MR. AITKEN: Yes.

MR. WARD: I withdraw the objection then.

A I could not recognize because some of them were wounded, others were dead.

Q Were they friends of yours, those that you visited?

A No, some of them were soldiers and I did not know them.

Q The only friend, then, that you visited **there** that day was Captain Nanjo, is that true?

✓ A I also knew another member of the Kempei unit, but he is now dead.

Q Had you visited him at the hospital?

A When we came up to the hospital we passed the hall where they were lying, and I could see some of them there.

Q I am referring to the one of the Kempei that you said you knew?

A The doctor only told me, pointing that that man was a member of the Kempei Tai, and I told the doctor that I was busy at that time and I would visit him some other day, because at that time I wanted to see **Lieutenant Nanjo**.

Q Now, at the time you saw Lieutenant Nanjo --

INTERPRETER BELAONG: Just a moment, please.

Will you read the answer, please?

(Last answer read by reporter.)

INTERPRETER BELAONG: Instead of "busy" add

"I was in a hurry at that time."

COLONEL STICKNEY: Will the reporter read that last?

(Last remarks of Interpreter Belaong read by reporter.)

Q Now, to refer back again to your first visit there on the 8th of December, when you say you saw Captain Nanjo in the hospital unconscious or asleep, you saw the bandage on his leg, did you see any other bandages?

A I only noticed at that time that bandage on his leg. I also saw some scratches on his face, on which some medicine was applied.

Q But no bandages?

A No other.

Q When you went there on the 25th of December, were the scratches still on his face?

A He had still some wounds on his shoulders. The wounds or scratches on his face at that time had already healed. But at that time also I could see that he was still weak.

Q Did they tell you how he got the scratches?

A I asked him.

Q And what did he say?

A He said that they were ambushed at Murcia.

Q And how did these scratches get on his face?

A He said that their chauffeur was hit and the truck rolled over.

Q Now, after the 25th of December, did you visit him again?

A No more, because we were afraid of machine-gunning after that time.

Q Was that the last time you saw him?

A Yes, that was the last.

Q Until you saw him in court here?

A Yes.

Q Now, did you recently and before coming up here, hear that he was being tried?

A I had heard.

Q And did you volunteer to come up as a witness in his behalf?

A I did not even know. I was only taken there by an American.

Q Taken where?

A I was taken away from my store.

Q And were you told what you were being taken away for?

A That American first asked me if I knew Captain Nanjo, and I replied that I knew him, and I was further told that before God I should tell the truth that I know him, and I replied that really I knew Lieutenant Nanjo, but he did not tell me that I would be brought here, nor any case mentioned against Lieutenant Nanjo.

Q Did he tell you that Lieutenant Nanjo was accused of having committed certain acts which included the period of time 8 December and 25 December 1944?

A I did not know.

Q How many times have you visited hospitals in which Lieutenant Nanjo was, not referring particularly to visits to Lieutenant Nanjo?

A I visited the hospital in which I had no intention really to see Lieutenant Nanjo, and that was only once.

Q When was that time? What date?

A I cannot now remember what date that was.

Q Do you remember what year?

A I cannot remember the year, but there were already bombings during that time.

MR. AITKEN: I think that is all.

COLONEL STICKNEY: Redirect examination?

MR. WARD: Yes, one or two questions.

REDIRECT EXAMINATION

BY MR. WARD:

Q You stated that after December 25, 1944, soldiers still came to your restaurant for viands for Lieutenant Nanjo. That is so, is it not?

A Yes, but I cannot remember the date when was that. I remember fully well that there were soldiers of his who went to my restaurant to buy viands.

Q Did these soldiers ever state whether or not the viands were for Lieutenant Nanjo or for someone else?

MR. AITKEN: I object to the question as leading and suggestive. The proper question would be: "Did the soldiers ever state for whom the viands were?"

MR. WARD: I withdraw the question and substitute the counsel's own suggestion.

A These soldiers at times go to my restaurant to buy viands, but I could not ascertain they were buying these viands for whom or for themselves, because at times when they were around my place I also was absent, so I could not tell for whom they were buying these viands.

Q Did these soldiers ever tell you how Lieutenant Nanjo was progressing, as to his health -- that is, after December 25th?

A I did not know any more, because I did not ask them any more questions.

MR. WARD: That is all.

COLONEL STICKNEY: Any recross-examination?

MR. AITKEN: No recross-examination.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q What did you say about Colonel Yamaguchi replacing someone else in 1942?

A The first time they landed -- the Japanese, I mean -- the colonel in charge was Olita, but I believe he was there for less than six months, in which he was again replaced by Fukuda, and then later on this Fukuda was replaced by Yamaguchi and this Yamaguchi stayed there for quite some time.

Q Did you say that Yamaguchi came in 1942?

A I cannot remember whether it was in 1942, but that he was the one who replaced the other officers there.

Q When Yamaguchi came, that is when you first saw Nanjo, is that correct?

A Because he was under Yamaguchi.

Q And did you say this morning that you first met Nanjo in late 1943?

A Yes.

Q And was he then stationed at Bacolod City?

A I first saw him when he came to my restaurant, but I did not know where he was stationed.

Q When did you find out where he was stationed?

A In 1944.

Q What month?

A I cannot remember what month, but I know that it was in 1944.

Q You had seen him before January 1944, is that correct?

A I saw him.

Q Do you know where he was stationed in January 1944?

A He was stationed at Boroboro.

Q Do you know where he was stationed in July 1944?

A I did not know.

Q Do you know where he was stationed in December 1944?

A I cannot tell now.

Q Do you know where he was stationed in February 1945?

A I cannot remember.

Q In April 1945?

A I do not know.

Q When your house was looted in April 1945, what property was taken?

A My clothings which were inside the sack, and my sewing machine which had no cover, and other papers, such as letters.

Q If Lieutenant Nanjo were here in the courtroom, could you point him out?

A Yes.

Q Will you look around. If you see him, walk over and point to him.

A (Witness points)

MR. WARD: She has pointed to the defendant.

(The witness walks to the defense counsel table and taps shoulder.)

COLONEL STICKNEY: The record will show the witness went over and touched the accused on the shoulder.

Q Do I understand that Lieutenant Nanjo received his injury in December 1944 through the overturning of a car?

A You mean he? I was only told by a soldier that when he was hit he jumped and when the chauffeur was hit the truck overturned.

Q What caused the scratches on his face and shoulders?

A I cannot tell, but possibly it might have been caused by his jumping from the truck and he fell among the thick grasses.

Q Do you know where the bullet wound was on his body?

MR. WARD: Objection. As of now, I do not know if there is any testimony as to any bullet wound.

COLONEL STICKNEY: Sure, there is.

MR. WARD: I withdraw the objection.

A They said he was hit on the leg.

Q Did you see his bandaged leg?

A Yes, I saw.

Q How many times did you see it?

A Twice.

Q Was the bandage on his right leg or left leg?

A I cannot now recall, because it was a long time ago.

Q Was the bandage on his lower leg or his upper leg?

A (Witness indicates)

INTERPRETER BELAONG: The witness indicated around the knee cap of the left leg.

Q You now say it was on the left leg, do you?

A I cannot now tell which leg.

Q But was it above or below the knee?

A I cannot now tell, because at that time his legs were tied. I cannot exactly locate whether the bandage were above or below the knee.

Q On your daughter's ninth birthday, when you saw the accused in the hospital, how far down from the top did the sheet cover his body?

A The blanket covered him from his breast down to the leg, just below the knee.

Q In that case, any bandage you saw was below the knee, is that correct?

A There was a bandage that was quite exposed. I did not take a particular look where that bandage was exactly.

Q You could not have seen above the knee on account of the sheet, is that correct?

A Yes.

Q And if you saw a bandage, it was below the knee, is that right?

A Yes, partly. I could not tell how long was that bandage up his knee, because it was covered by the blanket.

Q How far below the knee did the bandage go?

A (The witness demonstrates.) I will show how I saw the bandage that was exposed.

COLONEL STICKNEY: Will the reporter read the answer?

(The reporter read the answer.)

Q All I want to know is how far down the leg did the bandage go. Did it go to the ankle -- stop at the knee? What happened?

A I only saw a portion exposed which was like this (indicating).

INTERPRETER BELAONG: Do both counsels agree on the exposure?

MR. WARD: I will let Mr. Aitken make the description.

MR. AITKEN: I would say the witness indicates about an inch of bandage being exposed, the lower part of that being at the height of the calf, and the balance of the leg from the calf down to the ankle unbandaged.

MR. WARD: Fair enough.

Q On the 25th of December, how long did you stay in Captain Nanjo's ward at the hospital?

A I think we stayed there only about five minutes, because shortly after we arrived there came an air raid.

Q On that day did you see any bandages on Captain Nanjo?

A I have not seen any bandage on him, because at that time while he was sitting, he had his pajama on.

Q Was Captain Nanjo ever a member of the Kempei Tai, to your knowledge?

A I do not know.

Q Where did he receive his injury -- at the Murcia Sugar Central or Murcia barrio?

A I was told that he received his injury on the road in Murcia.

Q That is at Murcia barrio -- am I correct?

A Murcia is a town.

Q Murcia is a town.

And it was at the town of Murcia that he received his injury on your daughter's ninth birthday -- is that correct?

A I do not know, but only I was told that he received his injury in Murcia and that happened to be the day when I was told, the day when we celebrated the birthday of my daughter.

Q And he had received it that morning, is that correct?

A According to what I was told.

Q And do you know what time that morning?

A I do not know.

Q And the vehicle in which he was riding was overturned there at that time, is that right?

A That was what I was told.

Q And what time were you told this?

A I was told about 8 o'clock in the morning.

Q And in the intervening hours he had been carried to Bacoled and put in the hospital, is that correct?

A I was told he was brought to the hospital that morning.

Q And upon receiving that word, how long did you delay before you proceeded to the hospital to see him?

A I visited him already in the afternoon.

BY COLONEL MacKINTOSH:

Q On December 8th, who was it that told you Captain Nanjo was injured?

A His boy who was sent to my restaurant to buy viands.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that she is proceeding under the oath already administered?

(Interpreter Belaong so informed the witness.)

BY MAJOR FRITZ:

Q You state that after December 25, Captain Nanjo sent some of his boys to your restaurant to buy viands, did you personally see those boys, or men, or soldiers, whatever they were?

A I did not speak to these boys myself personally. But my waitresses were the ones who were able to speak with these boys, and after they had gone I would also ask my waitresses if Captain Nanjo had already recovered, and they also told me at the time he had not yet recovered.

Q However, you do not have personal knowledge that those men were sent by Captain Nanjo, do you?

A I was only told that those boys were ordered by Captain Nanjo.

Q On the 25th of December when you visited the hospital, did you speak to Lieutenant Nanjo?

A Yes.

Q As nearly as you can remember, what was the date of the first occasion on which he visited your establishment after being transferred to Boroboro?

A I cannot tell when that was, but all I know was that he had been assigned to Boroboro.

Q You stated that he occasionally stopped in for food some Sundays, as nearly as you can remember, what was the date of his first visit after he had been transferred to Boroboro?

A I cannot exactly tell when that was, but the year, I believe, it was in 1944.

Q Do you recall seeing Lieutenant Nanjo on the 21st of December 1944?

A I remember that I saw him at the provincial hospital on December 25, 1944.

MAJOR FRITZ: Would the reporter please repeat the question? And I ask for a yes or no answer.

(Question read by reporter.)

A I did not see him.

BY MAJOR HERR:

Q Are your residence and restaurant both under the same roof?

A My house is different from my restaurant.

Q You mean it is in a different location, your house?

A Yes.

Q Did I understand you to say that the last time you saw Lieutenant Nanjo was on the 25th of December 1944?

A Yes.

Q I had an impression that early in the afternoon, or perhaps this morning, you said you last saw him in 1945?

A On December 25, 1944, I remember that was the last time that I saw him.

Q Didn't you state you last saw him, earlier to day, in 1945?

A In 1945 he was still in the hospital, but I had not gone there.

Q I don't believe you have answered my question. Didn't you say earlier today that the last time you saw him was in 1945, and just more recently, December 25, 1944, was the

last time you saw him?

A I said that I saw him last on December 25, 1944,
but I was only told that he was still in Bacolod in 1945.

BY COLONEL STICKNEY:

Q Then, if you stated earlier today that you last saw
him in 1945 at the provincial hospital, that was in error,
was it?

A I say that I saw him the early part of 1945.

MR. WARD: Will the reporter read that answer
back?

(Answer read by reporter.)

Q Where?

A You mean in 1945?

Q I am just asking you?

INTERPRETER GENOVES: Which are you asking, sir,
1944 or 1945?

COLONEL STICKNEY: The question follows directly
the last answer she gave. I will withdraw the question.

Q You have just stated you saw the accused in 1945, where
did you see him in 1945?

A I did not say that I saw him in 1945.

Q If you did say, when you first got on the stand,
that you last saw him in 1945 at the provincial hospital,
was that a mistake?

A It is wrong.

Q Now, the accused used to come to your restaurant and bar with his soldiers and eat and drink with them there, is that correct?

A Whenever they went to my restaurant, they drank coffee and ate ice cream, but Captain Nanjo himself did not drink.

Q When they used to come to your restaurant and bar together, what did the soldiers used to call the accused?

A He was called by the soldiers "Captain."

Q Do you know whether or not he was a captain?

A I did not know. Only they called him "Captain."

Q Do you know whether or not he was a platoon leader?

A Yes, I know.

Q Do you know about how many men he commanded?

A I do not know.

Q Do you know that he belonged to Captain Takahashi's company?

A Yes.

Q And you have stated, have you not, that he was at Boroboro in July 1944?

A Yes, I said that.

Q Was he there in June 1944?

A Yes, he was there in 1944.

Q Was he there in June 1944?

A I know that in June 1944 he was stationed at Boroboro.

Q Was he there in May 1944?

A I cannot tell.

Q But you know he was there in June and July 1944, is that correct?

A Yes.

Q What about August?

A I cannot tell that, because I was very busy then.

COLONEL STICKNEY: I did not hear.

(Reporter read the answer.)

Q Were you busy in June and July?

A I was busy in my refreshment parlor.

Q How do you happen to remember those two months as being the months that he was at Boroboro?

A Because in June his soldiers brought coconuts to my place to barter for fish.

Q Do you mean Captain Nanjo's soldiers brought coconuts to your place to barter?

A I mean the soldiers of Captain Nanjo were the ones who brought those coconuts to barter fish in the market.

Q They used to barter the coconuts at your establishment?

A No. They passed by my restaurant, but they bartered fish with their coconuts inside the market.

Q How do you know that?

A Because I asked them.

Q Did they barter coconuts in July?

A In July they did not barter coconuts with fish.

Q How do you happen to remember that Captain Nanjo was at Boroboro in July?

A Because I was told by his soldiers.

Q How do you remember that their statements were that he was there in July? How does July happen to stand out in your memory, where August and May do not?

A I can remember this month because that was the month when we first had the harvest in our palay plantation in Murcia.

Q What month was that?

A That was the month of July.

COLONEL STICKNEY: I will ask the interpreter:
palay means what?

INTERPRETER BELONG: Unhusked rice.

Q And how can you remember that it was June that
Captain Nanjo's men brought in coconuts for barter?

A I can remember this because it was the first harvest
of our upland palay.

Q And during these two harvest months, Captain Nanjo
used to come down from Boroboro on Sunday and visit your
establishment, is that correct?

A I cannot remember.

Q Did you harvest anything in May?

MR. WARD: I object. At this time there has been
no objection by the defense whatsoever to any of the line
of questioning by the Commission. I mean -- what this lady
harvested in May has to do with her visiting Captain Nanjo
in December is beyond the comprehension of the defense.
As I state, we have not been making any objection up to this
time, but I believe at this time we should --

COLONEL STICKNEY: I withdraw the question.

Q Can you tell when -- during what month -- Captain Nanjo
made any of his Sunday visits from Boroboro to your restaurant
and bar?

MR. AITKEN: In Boroboro?

Q In Bacolod.

A I can say it was on Sunday, but I cannot tell what month
was that.

Q Does Easter Sunday stand out in your memory? 1944?

A Because on Sundays people go to Bacolod for marketing.
Sundays were the market days of Bacolod.

MR. AITKEN: May I ask the Commission, before you close this session, permit me to ask two questions that I might have asked before, but it will enable me to get off a telegram tonight and won't lose the time.

COLONEL STICKNEY: You may ask them now, as questions by the Commission.

MR. AITKEN: I have just two questions.

BY MR. AITKEN:

Q I would like to ask what was the name of the church in Bacolod at which your daughter was baptised?

MR. WARD: Objection at this time. It is completely immaterial -- I will withdraw the objection.

A My daughter was baptised in the church of the town of Himamalayan.

Q She was baptised under the name of Martina Milagros Toledanes?

A Martina Milagros Toledanes.

Q And what was her father's name?

A Felipe Toledanes.

Q What municipality is Himamalayan?

A Himamalayan is a municipality --

Q It is in Occidental Negros?

A Yes.

Q And at the time you received the usual Fe de Bautismo?

A Yes, I did receive it.

MR. AITKEN: That is all.

MR. WARD: At this time, sir, I know that the Commission is not through with its questioning. I want to know is this witness going to be kept here and continued on examination tomorrow morning?

COLONEL STICKNEY: Is that your wish?

MR. WARD: No, I am asking the Commission.

COLONEL STICKNEY: I have another question.

MR. WARD: I have only one myself. That way we could let the lady go home, unless the prosecution are going to keep her here.

BY COLONEL STICKNEY:

Q How do you know the accused used to come down Sundays and visit your establishment from Boroboro?

A Because he also came to my restaurant.

Q How do you know he did? How do you know he came to your restaurant?

A Because I was there also sometimes.

Q When did you see him there?

A On Sundays when he went there.

Q During the harvest seasons?

A Yes.

Q During June and July?

A I cannot understand your question.

Q You say during the harvest seasons?

A Yes, I said.

Q You mean during June and July?

A It was in June.

Q Of what year?

A 1944.

COLONEL STICKNEY: I have no further questions.

MR. WARD: I have just one.

BY MR. WARD:

Q You stated the soldiers of Lieutenant Nanjo called him "Captain." Do you mean they used the English word "Captain," or did they use the Japanese equivalent -- "Taichodono"?

MR. AITKEN: I object to that as another suggestion of answer for the witness. Why don't you ask her what they called him?

MR. WARD: She stated they said "Captain." I don't know which language it was in -- English or Japanese.

MR. AITKEN: In examining his own witness he wants to insinuate to her that they might have used another word, but she already said "Captain." It is leading and suggestive and I object to it.

MR. WARD: There is no way of knowing when she said "Captain" whether she meant the English word "Captain," the Visayan equivalent, or the Japanese equivalent. Because the men are Japanese, I asked her whether she meant the American word "Captain," or the Japanese equivalent. There is nothing leading. She can say one way or another. I am not suggesting either one.

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: May I have the question read back?

COLONEL STICKNEY: I will change that. The objection is sustained.

Q When the Japanese soldiers addressed Lieutenant Nanjo, did they use the English word "Captain," or the Japanese equivalent?

MR. AITKEN: The same objection.

COLONEL STICKNEY: The objection is not sustained.

A They said in Japanese "Suy." (As spelled by the witness.)

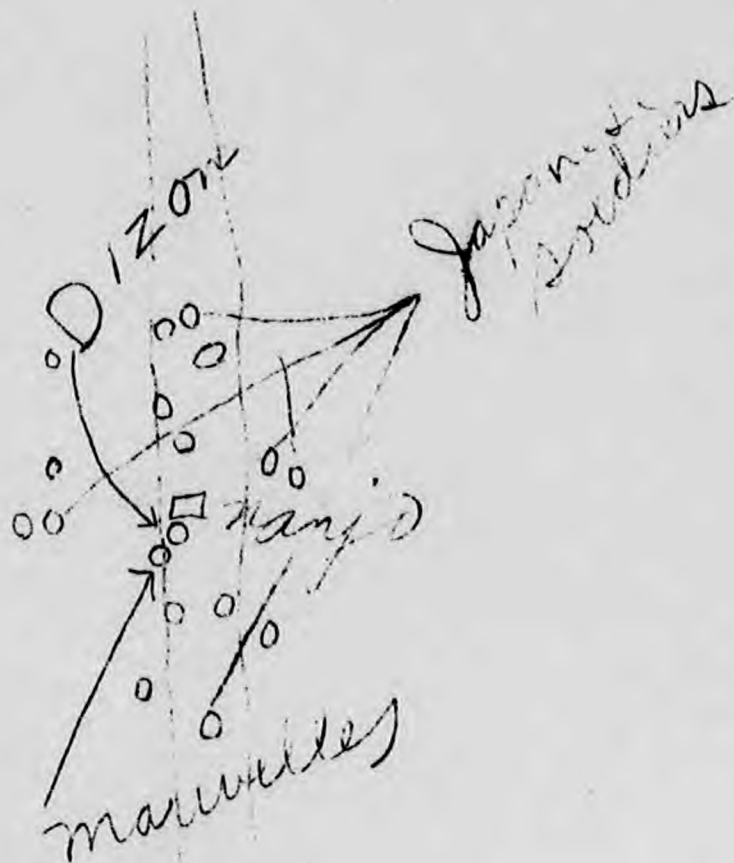
COLONEL STICKNEY: I think we had better have this witness tomorrow.

MR. WARD: I have this last question --

COLONEL STICKNEY: Yes, but I have some others.

The Commission will adjourn and reconvene at 0830 on the 23rd of October.

(The Commission adjourned at 1500 hours, 22 October 1946, to reconvene at 0830 hours, 23 October 1946.)



I hereby certify that the foregoing is a full, true and correct copy of the original on file, in the case of United States of America vs Masao NANJO, as Defense Exhibit "A".

Bruton B. Schardt
BRUTON B. SCHARDT
1st Lt., CAC
Executive Assistant
War Crimes Trials

U. S. A. vs Masao NANJO
Defense Exhibit "A"
Date: 15 October 1946

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XV
PAGES 893 TO 952, INCL.

MANILA, P.I.

DATE: 23 October 1946

COPY NO: _____

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney

RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)
)
) vs PUBLIC TRIAL
)
MASAO NANJO)

Court No. 2
High Commissioner's Residence
Manila, P.I.
23 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MACKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION: .

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	Japanese
2d LT. TAICHI NISHIHARA	)	
2d LT. JAMES NAKAMURA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Solidad Pastrano (Cont'd.)			894 897	897	898
Chiaki Kanda	902	916 930	940		944

EXHIBITS

	<u>Received</u>
Defense Exhibit B	911

PROCEEDINGS

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 23 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the Defense Counsel Ward, the Visayan interpreters, the defendant and his personal interpreter, and the reporter are all present in court. Will you remind the witness that she is still under oath?

(Interpreter Genoves translated to the witness.)

MR. WARD: At this time I am not sure whether the witness was being examined by the Commission or by the defense. I believe I was in the act of asking her a question.

COLONEL STICKNEY: I think you were examining the witness, and whether you had finished or not, only you can tell.

MR. WARD: No, I had not.

MR. AITKEN: At the end of the last session, I asked the privilege of asking the witness a couple of questions with reference to the church and where the baptism of her daughter took place, and that was finished at that time.

COLONEL STICKNEY: Yes, following that Mr. Ward was examining.

SOLIDAD PASTRANO

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Genoves and Belaong:

REDIRECT EXAMINATION (Continued)

BY MR. WARD:

Q You stated yesterday afternoon that the soldiers of Lieutenant Nanjo called him something that the interpreters spell like "Shoie," and at this time I can't remember how the interpreters spelled it. I wish that would be brought forth to refresh the witness' memory.

A I testified yesterday that the soldiers of Captain Nanjo call him "Suy," the spelling is, "S-u-y."

MR. WARD: And that is the witness' spelling as well as the way it sounds to the interpreter, is that correct?

INTERPRETER GENOVES: Will it please the Commission, is the question directed to me or to the witness?

MR. WARD: To you.

COLONEL STICKNEY: The question is your spelling -- was that the way she spelled it, or was that your spelling of what you heard her say?

INTERPRETER GENOVES: That is the word given by the witness and spelled by her.

COLONEL STICKNEY: She gave the word and you spelled it?

INTERPRETER GENOVES: No, she gave the word and spelled the word.

MR. AITKEN: How was that spelling? "S-h-u-y?"

MR. WARD: "S-u-y."

Q Could a possible spelling be "S-h-o-y"?

MR. AITKEN: That is objected to as cross-examining his own witness. Furthermore, this witness ---

MR. WARD: Question withdrawn, that is right.

Q And from the Japanese word "Suy," as you have testified, you derive the English word "Captain." Is that correct?

MR. AITKEN: That is further objected to as leading. Why don't you ask her what it means in English instead of telling her?

MR. WARD: She has already testified.

MR. AITKEN: That is all right, she is still your witness.

MR. WARD: She has already testified in that respect and therefore that is, as a review of tying those two together, what she believes "Suy" is.

MR. AITKEN: The vice of the question in examining this witness is that the witness, as soon as the question is finished, the witness knows what the answer is and what is desired. Obviously, counsel wants her to say from the word "Suy" she derived the meaning "Captain" and she has told it already, and that is not proper direct examination of a witness.

MR. WARD: If this would be the first question in that regard, counsel would be correct, but this is not, the witness has testified that this was Captain Nanjo, that was what his soldiers called him. Then there was a reasonable foundation laid of the fact whether the word was English or Japanese that was used. Then it comes out on further examination that the word used, heard, was "Suy." Now, the question -- a complete foundation was laid. Therefore it was not leading as it would be in the original since "Is the word 'Suy' as you heard it, the equivalent to the word 'Captain' in your mind as you previously testified?" In other words, it is not the original question, which would be objectionable, I agree, but at this time I think a proper foundation has been laid. It is not leading and therefore it is a good question.

COLONEL STICKNEY: Isn't it repetitious?

MR. WARD: No, it is tying the two together.

COLONEL STICKNEY: The objection is not sustained.

MR. WARD: Could I have my last question, please?

(Last question read by the reporter.)

A No, that is how they call him in Japanese.

MR. WARD: No further examination.

COLONEL STICKNEY: Any further cross-examination?

MR. AITKEN: Yes.

RECROSS EXAMINATION

BY MR. AITKEN:

Q Lieutenant Nanjo was a lieutenant at the time, was he not?

A He was a lieutenant.

Q Were there other lieutenants who visited your place of business?

A Yes, there were many who went there to buy something.

Q What did the soldiers call those lieutenants?

A They called them "Captain."

Q And what did they call the sergeants?

A They called the sergeant "Honcho."

MR. AITKEN: That is all.

COLONEL STICKNEY: Anything further?

MR. WARD: Yes.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q You stated on cross-examination that the Japanese called the other officers "Captain." Again, are you referring to the Japanese equivalent or the English word "Captain"?

MR. AITKEN: Objection. It is cross-examination of his own witness.

MR. WARD: That is not cross-examination, that is merely asking the witness what she means by her testimony. Elucidation, not cross-examination is a big difference.

COLONEL STICKNEY: The objection is not sustained.

A This is what I understood from the Japanese. In any place, or outpost, where there was a garrison, the one in charge, although what rank he had, although he would be a mere sergeant, he was called "Captain."

MR. WARD: That is all.

COLONEL STICKNEY: Is that answer responsive to your question?

MR. WARD: No, but I don't think the witness knows.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: Nothing.

COLONEL STICKNEY: Questions by the Commission?

FURTHER EXAMINATION BY THE COMMISSION
BY COLONEL STICKNEY:

Q Do I understand that at your bar and restaurant the Japanese called all lieutenants "Captain"?

A They were called by their soldiers "Captain."

Q Did the soldiers call all lieutenants "Captain" regardless of whether they were garrison commanders or not?

A Everybody who was the commander of a garrison was called "Captain" even though he was only a sergeant.

Q And what about a lieutenant who was not a garrison commander, what did they call such a lieutenant?

A They called him "Suy."

Q "Suy" -- was that, is that the same word we had before?

A Yes, "Suy" means lieutenant, but in case he is a garrison commander he is called a "Captain" even though he is only a sergeant.

Q When the accused first came to your establishment late in 1943, was he a garrison commander?

A I did not know as yet whether or not he was stationed in what garrison.

Q Well, when you first met him late in 1943, what did his men call him?

A He was then called "Captain."

Q And when he became a garrison commander at Boroboro, what did his men call him?

A He was called also "Captain."

Q And when did they begin to call him "Suy"?

A I don't know.

Q Did you ever hear them call him "Suy"?

A No, I heard his soldiers call him "Captain."

Q And you never heard his soldiers call him "Suy"?

A No, I did not hear.

Q Did you ever hear the soldiers use the word "Suy"?

A I did not hear them say.

COLONEL STICKNEY: Will the reporter please read the answer?

(Last answer read by the reporter.)

Q Did Captain Takahashi used to come to your establishment?

A Yes, sir.

Q What did the soldiers call him?

A He was called by his soldiers, "Taychiu."

MR. WARD: Would the Commission like the spelling of that?

COLONEL STICKNEY: From the witness.

MR. WARD: If she can.

A I don't know how to spell the word.

COLONEL STICKNEY: Well, we will take your spelling of the sound that you heard her give.

INTERPRETER GENOVES: If it please the Commission, the first word "Tay" was spelled by the witness, and the second syllable of the word is spelled according to what the interpreters have.

BY COLONEL MACKINTOSH:

Q What word did the Japanese soldiers use for "Captain"?

A That word I say "Taychiu."

Q Did Captain Nanjo's soldiers use the word "Taychiu" when they addressed him?

A No, his soldiers called him only "Captain."

Q Was the word they used "Captain" or "Capitan"?

A They used the word "Captain."

COLONEL STICKNEY: Anything further?

MR. WARD: One further, yes.

BY MR. WARD:

Q You stated garrison commanders were called "Captain" -- is that correct?

A Yes.

Q If a sergeant or sergeant-major was a garrison commander, would his title also be "Captain"?

A Yes, "Captain" also.

MR. WARD: That is all.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: Nothing.

COLONEL STICKNEY: The witness is excused.

(Witness excused,)

MR. WARD: At this time, as this happens to be a defense witness, we are completely finished with this witness, is the prosecution willing to release her to go back to Negros?

MR. AITKEN: No, I would like to have this witness kept here until I can hear from our telegram that was sent last night.

MR. WARD: Then the prosecution is not willing to release her from OCCW, is that correct?

MR. AITKEN: We will just as quickly as we can.

MR. WARD: At this time we call Lieutenant Konda.

MR. AITKEN: Japanese?

MR. WARD: Yes.

CHIAKI KANDA

a witness for the defense, being first duly sworn, was examined and testified as follows, through Interpreters Saito, Nishihara, and Nakamura:

DIRECT EXAMINATION

BY MR. WARD:

Q Your full name?

A Chiaki Kanda.

Q Your age?

A Twenty-eight years old.

Q You were a member of the Japanese Imperial Army, is that correct?

A Yes.

Q Of what rank?

A First lieutenant.

Q Attached to what corps? By that question I mean infantry, medical, etc.

A Medical officer.

(At this point Lieutenant Nakamura appeared at the interpreter's table.)

COLONEL STICKNEY: I would like to break in. Lieutenant, are you an official interpreter in this case?

MR. AITKEN: Are you James Nakamura?

You will be sworn.

(2nd Lieutenant James Nakamura was duly sworn as official court interpreter.)

Q You are a doctor, are you not?

A Yes.

Q Where did you study medicine?

A In Tokyo.

Q For what length of time?

A Four years.

Q Did you practice civil medicine before you went in the army?

A No, I did not.

Q How long did you practice medicine in the army?

A About two years.

Q Your former residence in Japan was where?

A In Saga Prefecture, in Kyushu.

Q There are no charges pending against you at this time, is that correct?

A No, I don't think so.

Q Prior to being called from Luzon Prisoner of War Camp you expected to be returned home to Japan, is that not so?

A That is right.

MR. WARD: At this time I think it would be advisable that the witness be notified of his rights.

COLONEL STICKNEY: Very well. You will help me with my interpretation. The Commission here is trying a case of the United States vs Masao Nanjo, and is trying to get at facts concerning a number of specifications. The defense has called you as a defense witness and after their examination you will be subject to cross-examination by the prosecution and by the members of the Commission. Neither the prosecution nor the members of the Commission are interested in any offense, if any, that you may ever have committed, and if questions are asked that would tend to in-

criminate you of having committed an offense, you need not answer such questions.

(Interpreter Saito translated to the witness.)

THE WITNESS: I understand.

Q On or about the months of December, 1944, January, February, March, and April of 1945, were you stationed in Occidental Negros?

A That is correct.

Q At that time you were attached to what unit?

A To the Yamaguchi force.

Q Calling your attention to this man (indicating the defendant), do you recognize him or know him?

A Yes.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that Mr. Schauer, co-defense counsel, come into court. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

Q Just before intermission, I asked you if you know the defendant -- indicating the defendant -- at that time and I did not receive your answer, did you say you did or did not?

A Yes, I know him.

Q Calling your attention now, to the early part of December 1944, did you have occasion to be in the Bacolod Hospital, Occidental Negros?

A Yes.

Q Did you have occasion to see the defendant, Lieutenant Nanjo at that time?

A Yes.

Q Was he there as a patient or visiting?

A He was a patient.

Q Had he been injured?

A Yes.

Q Where?

A Do you mean what part of the body?

Q What part of his body, yes.

A It was on his leg.

Q Have you had occasion to examine the leg of the defendant recently, by that I mean, within the last month or so?

A No.

Q Have you had occasion to look at or see the leg?

A Yes.

Q Calling your attention now to this picture illustrating a leg, I wish you to examine it closely, especially as to this area -- indicating slightly below the knee -- and showing a slight indenture in the leg, and ask you if you recognize the picture or the leg from which this picture was taken?

A Yes, I am familiar with it.

Q Were you present when this picture or one of several pictures was taken of the leg you see in this photograph?

A Yes, I was.

Q Is this picture a fairly good indication of what that leg appeared to you at that time?

A Yes.

Q Is this a picture of a healed wound that you spoke of when you referred to the defendant's leg in the hospital?

MR. AITKEN: I object to him leading his own witnesses. The proper thing is to ask him what it represents.

MR. WARD: This is merely a preliminary question.

MR. AITKEN: He has already answered the question.

COLONEL STICKNEY: The objection is sustained.

MR. WARD: If you wish me to go forward, I certainly will.

Q Do you recognize this wound?

A Yes.

Q Where had you seen it previously?

A I also saw it in the positions in the mountains.

Q Did you have occasion to see it in the Bacoled hospital?

A Yes.

Q And on whom did you see this wound?

A I believe it is the wound on 2nd Lieutenant Nanjo.

Q Did you have occasion to examine this wound in the Bacolod hospital?

A I did not give it any direct treatment.

Q Did you have occasion to look at it, or examine it?

A Yes.

Q As the picture indicates -- what type of wound was this? Could you tell whether it was caused by an accident, a bullet, a saber or what?

A Yes.

Q From what?

A I believe that it was from a bullet of a rifle or a pistol.

Q The part of the wound as shown by the picture, would that be where the bullet entered or came out?

A I believe that it was the place where the bullet came out.

Q Now, with details as to where the wound occurred, can you tell us what part of the leg was injured -- that is, as to the muscles and the bones if the bones were struck, also prior to answering this question, if you had occasion recently to write or make notes of the injury, you may use those notes to refresh your memory saying that you cannot recall the complete data in your own mind.

COLONEL STICKNEY: While we are getting the translation into Japanese and into English, I would like to ask the defense counsel whether there is any particular point of introducing a series of photographs when we actually

have the defendant and the knee here in the courtroom?

MR. WARD: Well, it is for the purpose of the reviewing authority. Of course, instead of having the defendant get on the stand and pulling up his leg, etc., which only the Commission can see. At this time I had pictures taken of the leg and I had them introduced in evidence so that when the witness is talking of the injury he may have something directly before him to use in illustrating his answers. Otherwise, you would have to have the defendant on the stand or near the Commission, and the doctor poking around the defendant's leg in describing the wound. This, I thought, would greatly facilitate the matter.

COLONEL STICKNEY: It appears to me to be very awkward. We have testimony that the witness believes that this is a picture that was taken of the leg of the accused sometime in the past, and if he looks at the leg he can see this is the leg of Captain Nanjo.

MR. WARD: In addition to the pictures we can have the witness look at the leg, but I wish to put this picture into evidence as well, having the --

COLONEL STICKNEY: It was just a suggestion on my part.

MR. WARD: Yes, we will do both, sir.

COLONEL STICKNEY: I don't know that you need to do both as far as I am concerned. I was hoping that we might expedite things by excluding the things that would be so awkward and so useless.

MR. WARD: I would say it was of great value, sir.

MR. AITKEN: The picture is only a part of one showing the wound, why don't you expose the wound?

MR. WARD: We will as soon as the defendant --

COLONEL STICKNEY: There has been no objection, it was just a suggestion.

MR. WARD: Yes, and we will have the defendant show the wound in a few minutes as soon as the description is into the record.

(Off-record discussion ensued between President of the Commission and the defense counsel regarding the procuring of witnesses from Japan.)

A It entered the muscles in the back of the leg, had gone through the tibia, more commonly known as the shinbone, and had come out at the front. However, the bone was not broken and it had gone clean through the bone.

MR. WARD: Excuse me, that last was "clean through the bone"?

INTERPRETER SAITO: Yes.

Q In your opinion how serious a wound was inflicted?

A I believe that it was quite a serious wound.

Q And what would be the approximate time of recovery?

A If we had taken an x-ray we would have known better.

However, from the outward appearance at that time estimated about three months before he would be able to walk again.

Q On the face of the exhibit, the picture you have in your hand, will you please indicate where on that picture the healed wound appears? With this pen will you draw a circle around it and indicate it with an arrow.

A (Witness drew arrow on photograph.)

Q At this time, I am going to have the defendant expose his right leg and have you examine it as well. (Defendant arises and appears in front of Commission, the present witness examining the leg.)

Q I wish you to examine the right leg of Nanjo and indicate the wound that you treated in Bacolod, I mean, that you saw in Bacolod at this time.

MR. WARD: He indicated the position about five inches below the knee in the front.

Q And is this the place you stated where the bullet came out?

A Yes.

Q And where did it enter?

A (Indicating) I believe it is this.

MR. WARD: Indicating a position about five and one-half inches below the break of the leg in the rear. Is that about correct Mr. Aitken?

MR. AITKEN: Position in the calf of the leg, not the break. In the middle of the calf of the leg.

MR. WARD: All right. At this time I would like to introduce the picture of the leg as People's Exhibit --

COLONEL STICKNEY: We have no People's Exhibit.

MR. WARD: Excuse me, Defense Exhibit B.

MR. AITKEN: As a part of the witness's testimony?

MR. WARD: As a part of the witness's testimony.

MR. AITKEN: No objection.

MR. WARD: We will have to withdraw several of these from the Commissioners, however, as some are

essential for the twelve copies for the record.

COLONEL STICKNEY: You wish to introduce this as Defense Exhibit B.

MR. WARD: Yes.

COLONEL STICKNEY: And when today's volume is printed, will you have enough copies so that there can be twelve appended to that?

MR. WARD: There will be twelve, as I stated. However, I have to take a couple of these back from the Commissioners, also the copies will have to be marked with the circle.

COLONEL STICKNEY: It might be well if the members of the Commission, as well as the reviewing authority, could look at the circle. It is understood that the circle is to be on all twelve copies, is that correct?

MR. WARD: Yes, that is what I was saying, I, will have to withdraw them until the circles are drawn on all twelve.

COLONEL STICKNEY: The writing at the bottom will be changed I presume?

MR. WARD: Yes, we will have to amend this, the received date.

COLONEL STICKNEY: This photograph is received in evidence as Defense Exhibit B.

(Defense's Exhibit No. B
received in evidence.)

Q At the time you saw this wound on the defendant were you stationed at the Bacolod hospital?

MR. AITKEN: Objection to this continual leading of the witness -- this is direct examination. Why don't

you ask him where he was stationed instead of telling him.

MR. WARD: He saw it, and stated on direct examination he saw the wound at the Bacolod hospital. I am asking him if he was stationed there.

MR. AITKEN: Obviously, counsel does not know how to ask a direct question, he has to lead the witnesses as if in cross-examination.

MR. WARD: A leading question is one that indicates the answer. Now, there can be an indicated answer at the time you saw this wound at the Bacolod hospital, were you stationed there, if that is an indication of whether he should say yes or no, I fail to see it. That is not a leading question, as counsel says, and I do know the types of questions, and if he can show me how that question asks for a yes or no question, I will stop down.

MR. AITKEN: At such and such a time, were you in Bacolod hospital, the answer would be "yes".

MR. WARD: I did not say whether he was in the Bacolod hospital, I said at the time you saw this leg were you stationed at the Bacolod hospital?

MR. AITKEN: All right, where were you stationed, is the way to ask the question.

MR. WARD: Counsel at this time still fails to show the Commission, I believe, whether this question asked for a yes or no answer. It was a preliminary question on the fact he was in the Bacolod hospital when he saw this. Now, I ask specifically when he was in the Bacolod hospital, was he stationed there?

COLONEL STICKNEY: Objection is sustained.

Q On or about the time you saw the wound on the defendant's leg, where were you stationed, the first time you saw the wound on the defendant's leg where were you stationed?

✓ A In Bacolod.

Q Were you or were you not attached to the Bacolod hospital or some other unit?

MR. AITKEN: Please ask the witness if he will please speak up so we can hear him.

A ✓ No, I was with the Yamaguchi unit.

Q At that time was there a resident physician at the Bacolod hospital?

A Yes.

Q Do you by any chance remember his name?

A Medical Officer --

INTERPRETER SAITO: Correction please.

A (Cont'd) -- Medical Officer, Candidate Tsumori.

Q Did you have occasion to visit Bacolod hospital regularly during this period?

A I went there occasionally.

Q Did you visit the hospital subsequent to the date you initially saw the defendant and his wound?

A It was about the middle part of December when I went there again.

Q At that time did you see the defendant?

A Yes.

Q What was his condition at that time?

A At that time it was rather swollen, and on the side where the bullet came out there was a slight pus coming out of it, and on the side where the bullet entered the swelling had subsided quite a bit.

Q Was he in bed, or not?

A Yes.

Q At that time was he able to walk?

A I don't think he was able to walk at that time.

Q Did you have occasion to see the defendant, Nanjo, after that period of about the middle of December?

A Yes.

Q When was that?

A I have been going there for about once or twice a week.

Q And during these periods of going once or twice a week, did you have occasion to see the defendant, Nanjo?

A Yes.

Q Was he in the hospital at that time?

A Yes.

Q Over how great a period of time do you recall the defendant still being in the hospital?

A I believe that he got out of the hospital about the middle part of March.

Q Calling your attention then to approximately the middle of March, do you have occasion to know where Nanjo went at that time?

A I was in the city of Bacolod at that time and he came over as soon as he got out of the hospital to see me.

Q Was he able to walk then?

A I think that he had walked with the aid of a cane, and at a very slow gait.

Q Do you have occasion to know whether or not he was still attached to the dispensary or had he joined his unit?

A The Force Headquarters was located at a place called Lourdes, and I believe he immediately went there. I was still in the city of Bacolod.

Q During this period you say you visited the Bacolod Hospital once or twice a week, did those visitations take place from approximately the end of December until the middle of March?

A I believe it was up to the latter part of February.

Q And during those periods, that is up to the latter part of February, you saw the defendant, Nanjo, in the hospital, is that correct?

A Yes.

MR. WARD: Counsel may cross-examine.

CROSS-EXAMINATION

BY MR. AITKEN:

Q When did you join the Japanese Army? What date?

A It was in April of 1943.

Q What date in April?

A The tenth of April.

Q Did you join it then as a full-fledged medical officer or as a probationary officer?

A At that time I acted as a common soldier.

Q And how long did you remain a common soldier?

A About half a year.

Q What branch of the service were you attached to as a common soldier?

A Infantry.

Q And where did you serve as an infantryman?

A At Kurume, on the Island of Kyushu.

Q From there, where did you go?

A Then I went to a place called Himeji. That is located in the Prefecture of Hyogo.

Q What island?

A Honshu.

Q And while at Hyogo, Honshu, were you still in the infantry?

A No. At that time I was a candidate for medical officer.

Q What date did you go to Hyogo, Honshu?

A October 15, 1944. I will make a correction on the previous answer given -- I stated April of 1943 -- I meant that to be 1944.

Q Up to that time you had had no civil practice of medicine, had you?

A No.

Q And what training you had was it as a physician or as a surgeon, up to that time?

A While I was at school I did not specialize. We took everything in general.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Nakamura so informed the witness.)

Q How long did you remain a candidate for a medical officer?

A Two months.

Q And were you then commissioned as a medical officer?

A Yes.

Q What rank.

A Second Lieutenant.

Q Did you stay there in Honshu or were you transferred then to another station?

A I immediately went to the Philippines.

COLONEL STICKNEY: Will the reporter please read that answer?

(Last answer read by reporter.)

Q What date did you leave for the Philippines?

A I would like to correct myself again. When I said a little earlier that it was April 10, 1943, that I was taken into the Army, that was correct. It is not April 10, 1944. I left Japan the first part of January 1944. The first part of January 1944.

Q Do you know what date of January 1944?

A I left Osaka about the 6th or 7th of January.

Q And where did you disembark?

A Manila.

Q Can you remember the date?

A I cannot remember the date exactly, but it was in the middle part of March.

Q Had you proceeded directly from Osaka to Manila?

A No, I stopped enroute at Takao in Formosa.

Q Takao, how long were you there?

A Approximately forty days.

Q Could you give us the date when you arrived there and when you left Takao -- the date of arrival and the departure from Takao?

A I reached Takao on about the 20th of January 1944, and I left Takao on about the 10th of March 1944, and I left Takao by airplane for Manila.

Q By airplane, did you say?

A Yes. At the time that I left Takao I went to Taihoku in Formosa and then by the plane for Manila.

Q Now, when you say that you reached Takao about the 20th of January, how much leeway do you give to include the word "about," how many days?

A By "about" I mean two or three days' leeway either way.

Q That is, it might be the 18th of January or the 22d of January, and that would include what you mean by about, is that right?

A Yes, that is correct.

Q Now, when did you arrive in Manila?

A The middle part of March.

Q And when you say about the middle part of March, about how many days would you include in that middle period from date to date?

A I mean that I reached Manila about the 14th, 15th, or 16th.

Q That is, it could be from the 14th to the 16th, inclusive, is what you would want to convey?

A In general that is correct.

Q Yes, was that in 1944?

A Yes.

Q Now, how long did you stay in Manila?

A Approximately two months.

Q What month did you leave Manila?

A I believe it was towards the end of April or the beginning of May.

Q And you went where?

A I went to the line of communications hospital, a little south of Manila in McKinley.

Q You refer to Ft. McKinley, about forty minutes' automobile drive from the City of Manila?

A Yes, that is correct.

Q And how long did you stay there?

A Approximately a month.

Q What work were you doing at that time, were you a regular surgeon in the Army, or were you doing any other branch of medical work?

A I had no particular work and I was awaiting assignment at that time.

Q And while you were there, did you receive an assignment to another station?

A Yes, I did.

Q Where?

A I received assignment to the headquarters of the Kono brigade at Cebu.

Q The Kono headquarters at Cebu?

A Yes.

Q What date did you report there?

A I believe it was around the 10th of June.

Q As to that date, is there also a latitude of several days?

A Yes, I can't remember exactly. There is a latitude of a few days.

Q Then, could it have been the 7th of June, or the 13th of June, that would be right?

A Yes.

Q Now, how long did you stay in Cebu?

A Approximately a month.

Q And then where did you go?

A To the Yamaguchi unit on Negros Island.

Q Now, what date did you report to Colonel Yamaguchi?

A I can't remember exactly, but I believe it was two or three days after the 20th of July.

Q Could it have been before the 20th of July?

A No, I believe it was after the 20th.

Q Could it have been as late as the 25th?

A That may have been.

Q Now, where were you assigned when you reported to Colonel Yamaguchi?

A I was stationed at the unit headquarters.

Q What were your duties?

A My duty was as a medical officer and so I looked after the sick and wounded of the unit.

MR. AITKEN: Looked after the sick and wounded?

INTERPRETER NAKAMURA: Sick and wounded of the unit.

Q And were you attached to any particular hospital?

A No.

Q Were there other medical officers attached to the unit?

A Yes.

Q How many?

A There was one other.

Q Was he your subordinate or superior?

A Yes, he was a superior.

Q How many hospitals did you have under your jurisdiction?

A There was no such thing.

Q You mean that there were no hospitals conducted by the Japanese forces?

INTERPRETER NAKAMURA: When you said "under your supervision," you mean supervision of the unit?

MR. AITKEN: No, under his medical officer. I will reframe the question.

Q As a medical officer, were you attached to or assigned to any particular hospital?

A No.

Q How many hospitals were there where Japanese wounded were cared for?

A On Negros Island there was one.

Q Where was that?

A That was within the city of Bacolod.

Q And from the time you reported to Colonel Yamaguchi were you continually in the city of Bacolod?

A Yes.

Q Were you sent to other localities, such as Talisay or Silay?

A No.

Q From the month of July, when you say you reported to Colonel Yamaguchi, to the end of the year, how many Japanese wounded did you care for? I will rephrase the question. How many Japanese patients did you care for?

A I don't remember.

Q Approximately?

A I cannot say clearly.

Q During that period of time were there any Japanese officers confined to the hospitals?

A Yes, there were some officers confined to the hospital.

Q Did you visit those officers?

INTERPRETER NAKAMURA: By "visit" do you mean officially or medical?

Q No, while they were patients. I don't care whether the visit was an official one in the hospital or a medical visit, so long as it was a visit to the hospital.

A Yes, I went to visit them socially and as a friend.

Q While they were patients in the hospital?

A Yes, that is correct.

Q What hospitals were they in?

A They were in the one hospital that was in Bacolod.

Q What was that called -- that hospital?

A I believe it was the 13th Army Hospital and Bacolod Sanitarium.

Q Was there a hospital in Bacolod known as the Provincial Hospital?

A Yes, there was.

Q Did you visit in that hospital?

A No.

Q At no time? At any time?

A I went there on one or two occasions to do something. However, there were no patients that I knew there at any time.

Q Who was the first officer patient that you visited after reporting to Colonel Yamaguchi?

A I believe it was a platoon leader from the Nakashima Unit. I cannot remember his name at this moment.

Q When did you visit him?

A I believe it was in the latter part of July.

Q When you say, "I believe," you mean you are not very sure?

A Yes, I am not sure of it. At that time I went to the hospital together with another medical officer on a social call and I visited the patients there.

Q That could have been within the last few days of July or the first few days of August?

A No, I believe it was in the latter part of July.

Q Well, over what period of days then would include the latter part of July?

A I mean sometime after the 25th.

Q Now, do you remember the next officer you visited after that?

A I believe the next officer was 2nd Lieutenant Nanjo.

Q So, from July, the latter part of July, 1944, until about December, 1944, you don't remember visiting any other officer, is that correct?

A I believe that there were no others.

Q What hospital was Lieutenant Nanjo in when you say you visited him?

A Bacolod Sanitarium.

Q Was the Bacolod Sanitarium a military hospital?

A Yes.

Q Did it have any connection with the Provincial Hospital of Bacolod?

INTERPRETER NAKAMURA: By "Provincial Hospital" you mean the Negros Provincial Hospital, don't you?

Q Yes.

COLONEL STICKNEY: There seems to be trouble among the interpreters. This Provincial Hospital has appeared in the record before.

INTERPRETER NISHIHARA: Yes, I know, but we are wondering whether the interpretation of this word "Provincial" --

COLONEL STICKNEY: Yes, but you people have interpreted "Provincial" before. We have it here. We have it

that this man has been to a provincial hospital and not for the purpose of visiting patients, but for other purposes. Whatever word was used before, I should think would be used again. I don't know any Japanese at all, I don't pretend to. There seems to me a little trouble among you and I wonder why it is.

A I do not know.

Q Now, on the day that you visited Lieutenant Nanjo did he already have a regularly assigned doctor?

A I believe there was only one medical officer at the Bacolod Sanitarium; that was Tsumori.

Q His regular assignment was at the Sanitarium?

A Yes.

Q I think you said he was your superior officer, did you not?

A No.

Q Were you his superior officer?

(At this point there was a discussion between the witness and the interpreter.)

INTERPRETER NAKAMURA: He wanted me to ask the previous question over again. He has some doubts and the answer is the same as given before.

MR. AITKEN: Repeat the question.

INTERPRETER NAKAMURA: I did repeat it. He answered "No."

MR. AITKEN: The answer was "No"?

INTERPRETER NAKAMURA: Not to the last question, but to the one previous to that, I did not ask the last question.

Q Who was the superior officer, Tsumori or you?

A I was.

Q What was Tsumori's rank?

A He was a probationary officer.

Q And you at that time were a commissioned lieutenant?

A Yes.

Q First or second lieutenant?

A 2nd Lieutenant.

Q When Nanjo entered the hospital who dressed his wound first, if you know?

A I do not know.

Q How often did you visit that hospital during that period of time?

A What time are you referring to?

Q December, January -- along there -- 1944 or 1945.

A I went once, the beginning of December, and after the middle part of December, that is about the 15th, I went once or twice every week.

MR. AITKEN: Will you please read the last question.

(The reporter read the question.)

Q In the month of November, 1944, did you make regular visits to the hospital?

A Yes, I was going occasionally.

Q How often?

A I do not remember.

Q Was it once a week, once a month, several times a week?

A I believe it was about once a week or once in two weeks.

Q And that was your regular practice then from July when you reported to Colonel Yamaguchi through the early part of December, 1944, is that correct?

A And I was also looking after the patients of the unit.

MR. AITKEN: (To the interpreter) Please repeat the question. Ask him if he will answer it categorically.

(The reporter read the question.)

A I went occasionally to the hospital, because there were patients from my unit there.

COLONEL STICKNEY: The Commission will recess and will reconvene at 1300 hours.

(The Commission recessed at 1125 hours to reconvene at 1300 hours.)

AFTERNOON SESSION

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the assigned interpreters in Japanese, and the reporter are all present in court. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito so informed the witness.)

CHIAKI KANDA

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nakamura and Seito:

CROSS-EXAMINATION (Continued)

BY MR. AITKEN:

Q Now, you say early in December 1944 you visited the hospital when Lieutenant Nanjo was there, is that correct?

A Yes.

Q Now, by early in December, what do you mean, the first week in December?

A I mean up to about the 10th of December.

Q Up to about the 10th of December. So that as far as your recollection is concerned, you might have visited the hospital a day or two before the 10th of December, or a day or two after the 10th of December, is that correct?

A I mean from the 1st to the 10th.

Q Some time between the 1st and the 10th?

A That is correct.

Q Did you keep a record of these visits?

A No, I have no records.

Q Was there any particular reason for your first visit?

A In the early part of December the unit went to Bago because the American landing was imminent. After three or four days I went to Bacolod to get some medical supplies. I returned about three or four days later.

At that time I went to visit Probational Officer Tsumori and while visiting him I saw Lieutenant Nanjo.

Q Now, do you know what date it was in December when the unit moved to Bago?

A I cannot recall the exact date, but it was about the latter part of November and the early part of December.

Q And did you move ---

MR. SCHAUER: Excuse me, counsel, I wonder if the witness would mind speaking louder so that the defendant could hear the answers as given by the witness?

COLONEL STICKNEY: Yes, will you direct the witness to speak louder in Japanese so that the defendant can hear what he says?

(Interpreter Saito interpreted to the witness.)

Q Did you move with the unit to Bago?

A Yes.

Q And how many days after you moved to Bago was it that you returned to Bacolod for supplies?

A I believe it was about three or four days after.

Q So according to your estimate, then, when you returned it might have been as late as the 10th of December, is that true?

A Yes, that could be probably so.

Q Do you think it could have been as late as the 12th?

A By the 10th of December I believe I was there already.

Q Now, when you got there were you informed by Probational Medical Officer Tsumori that Nanjo was in the hospital?

A That is correct.

Q And did you make an examination of his leg at that time?

A I believe it was the next day when I went to his place, but he was asleep. Therefore, I did not bother him and I just went out.

Q Did you make an examination?

A No, I did not make the examination at that time.

Q Now, when did you come back there after that time?

A Do you mean Bago?

Q No, to the hospital where Nanjo was.

A The next time I saw Nanjo was about the middle of December.

Q Now, when you say the middle of December, about what period do you embrace in that expression, "middle of December"?

A It is about from the 12th up to the 18th of December.

Q Now, on the occasion of that second visit was when you examined Nanjo, is that it?

A On the second visit Probational Officer Tsumori was giving Nanjo medical treatment. At that time I also looked at his leg.

Q Did you remove the bandages?

A No, I did not.

Q What treatment was Tsumori giving him at the time?

A It was a normal treatment. First the wound area was sterilized, then mercurochrome was applied and then libinal gauze was put inside of the wound.

INTERPRETER SAITO: I don't know the word for "libinal."

(Discussion ensues between interpreter and witness.)

A Libinal gauze is a yellow cloth and libinal is a German name.

Q That is placed inside the wound to drain it, is that it?

A That is to serve the purpose of sterilizing the inside of the wound and also get some of the pus out.

Q Was the wound at the part where the bullet entered being allowed to heal?

A At the entrance of the bullet hole, libinal gauze was just applied.

Q Now, as to all of this treatment that you have just described, all you know is what Probationary Officer Tsumori told you, isn't that true?

A No, I have seen it.

Q I asked you before if you had examined the wound and you said up to the time of that second visit, which was the middle of December and might have extended anywhere from the 12th to the 18th, you had not seen the wound -- when did you see that wound?

MR. WARD: Objection as asked and answered. He stated in his direct testimony, not to differ with counsel, that on the first visit when he came to the hospital, he thinks by the 10th when he went to the hospital the day after he arrived, Nanjo was asleep. On the second visit, which was the middle of December,

he knows at that time he saw the wound with the probational officer, and the counsel is misquoting the testimony. And that question has been asked and answered.

MR. AITKEN: Unless I am very much mistaken in his testimony, he said he did not see the wound that time.

COLONEL STICKNEY: The first time?

MR. AITKEN: Or the second time, that is why I am bringing this out. I don't want to depart from the record, but that is my recollection of what he said. Will you turn back please?

(Desired portion of the record read by the reporter.)

MR. WARD: The question is he did not open the bandages.

MR. AITKEN: Well, you can't examine a wound without opening the bandages.

MR. WARD: But the probational officer did and they treated the wound, and if I remember correctly, they put gauze in it and examined the wound and dressed it for draining the pus. So, he personally may not have taken off the bandages, but he was present when the probationary officer did. If so, counsel can certainly make that as a preliminary question and my objection will be withdrawn.

MR. AITKEN: That may be an interpretation of the testimony, but I don't consider that the testimony.

COLONEL STICKNEY: The objection is not sustained.

MR. AITKEN: Will the reporter read the question, please?

THE REPORTER: "I asked you before if you had examined the wound and you said up to the time of that second visit, which was the middle of December and might have extended anywhere from the 12th to the 18th, you had not seen the wound -- when did you see that wound?"

MR. WARD: Objection. He did not say he did not see it; he said he did not take the bandages off. That is misquoting the evidence we just had read to us.

COLONEL STICKNEY: What is your objection now?

MR. WARD: Counsel states: "You just testified you did not see the wound on the second visit." In direct examination he said he did not take the bandages off, but describes the fact that the probational officer did. The question is misquoting the evidence.

COLONEL STICKNEY: I may not have heard it myself. I thought it was read: "I saw the leg but I did not examine it."

MR. WARD: The first visit --

COLONEL STICKNEY: No, the last part that was read, just before the reporter finished reading. Didn't you read somewhere -- it sounds like he saw the leg but did not examine it?

(The reporter read the following from the record.

"Q Did you make an examination?

"A No, I did not make the examination at that time.")

MR. WARD: That was referring to the first visit, did it not, in your notes?

REPORTER ROBERTS: I can't tell without reading it all, whether it was the first visit or not.

COLONEL STICKNEY: When you read that long series of questions and answers, it began with the first visit and then went on to the second visit, and it was toward the very end of what you were reading and before you got to the question of whether or not he removed the bandage.

I thought you read that he saw the log but did not examine it.

(The reporter read the following from the record:

"A On the second visit Probational Officer Tsumori was giving Nanjo medical treatment at that time. I also looked at his leg.

"Q Did you remove his bandage?

"A No, I did not.")

COLONEL STICKNEY: The statement was he looked at the leg.

MR. WARD: And further testimony states that Tsumori was cleaning the wound, how he did it, and etc., so obviously he must have seen it. He was describing it. Therefore, counsel's question as to the second visit is strictly misquoting the evidence.

COLONEL STICKNEY: Will you read the question now to which the objection was made?

(The reporter read the question.)

COLONEL STICKNEY: The objection is not sustained.

A I did not say I did not examine the wound on that second visit. I stood by Probationary Officer Tsumori's side and looked on while he treated the wound. At that time I saw Nanjo's leg.

Q Was any X-ray taken at that time or at any time that you know of?

A No X-ray was taken.

Q You never saw the wound probed, did you?

A On the second visit Probationary Officer Tsumori probed Nanjo's wound with a medical probe and at that time I borrowed the probe and also did some probing of my own.

Q How deep did you probe?

A The wound was still open clear through so I probed all the way through.

Q After that visit, you went back to Bago?

A From that time on, I stayed on in Bacolod.

Q Did you come back to Bacolod? Did you make a return visit to Bacolod?

A I returned to Bacolod about the middle of December, which was an occasion for my second visit to Nanjo, and from that time on, I stayed on in Bacolod.

Q And did you make regular visits to the hospital?

A Yes.

Q So after your unit moved from Bacolod to Bago and you went with it, you only stayed in Bago then a few days, and then returned to Bacolod -- is that what you would have us understand?

MR. WARD: Objection again. If he is referring to the testimony, it is misquoting it. He said he went down to Bago once, then back to Bacolod, then to Bago --

MR. AITKEN: I'm trying to ask whether he had changed his station.

MR. WARD: He stated definitely his movements. The question has been asked and answered. He has covered it now thoroughly. It was covered once thoroughly with the defense; it was covered once thoroughly with the prosecution; and now this is a repetition of the same thing. In fact, the question implies that when he says: "Is that what you are giving us to understand?"

COLONEL STICKNEY: It still is vague in my mind. There seem to be contradictions here and there. The objection is not sustained.

A That is correct. After a few days I returned to Bacolod.

Q And how long did you stay in Bacolod?

A I stayed on from then on until the time of the landing of the American troops.

Q Do you remember the date?

INTERPRETER NAKAMURA: The date referring to the landing of the Americans?

Q Yes.

A The Americans landed, I believe, on the 29th of March, 1945.

Q Now, each time you returned to the hospital after that second visit, around the middle of December, did you examine the leg of Nanjo?

A No, I did not examine the leg of Nanjo each time I returned to the hospital. Occasionally, when I went to the hospital, at those times when it was his time to be treated, I treated him or watched Tsumori take care of him.

Q I will refer you back to the time of your first visit to the hospital, when you saw Nanjo and you saw his wounded leg. Did you see any other wounds?

A I cannot remember clearly, but I remember something like a bruise on the side of his face.

Q A bruise on the side of his face?

A Yes.

Q What did it look like?

A I believe it was an abrasion.

Q Was it something that required medical treatment?

A It was not a wound that needed any particular attention.

MR. AITKEN: That is all.

COLONEL STICKNEY: Redirect examination?

REDIRECT EXAMINATION

BY MR. SCHAUER:

Q After the 29th of March, 1945, did you have occasion to see Nanjo at any time?

A After we went into our defensive positions in the hills, I saw him once?

Q Where was he when you saw him?

A He was in the defensive positions in the hills.

Q About how far was the place where he was at the time you saw him from Bacolod City?

A In walking from Bacolod City to the defense area, it takes approximately a day or a day and-a-half by walking.

Q Could you estimate the distance -- that is, by foot, the walking distance -- in terms of kilometers?

A Unless I see a map, I cannot clearly say where it is, but it can be anywhere from twenty to thirty kilometers.

Q Do you recall about what day it was when you saw him in the hills?

A I believe it was about the 5th of April.

Q Did you notice how he walked at that time?

A Yes, I noticed.

Q Will you describe to us how he walked at that time?

A He was limping and walking with the aid of a cane.

Q As far as you can recall, was that the last time that you saw the defendant, Nanjo, in the month of April?

A Yes.

Q You testified that Lieutenant Nanjo was at the Bacolod sanitarium. What kind of a building was that?

A It was a concrete structure. In the back there was a small wooden building. The main building was a two-story building.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito reminded the witness that he was still under oath.)

Q Did this hospital consist of just one building, or were there more buildings than just the one?

A More than one.

Q How many?

A There were four or five buildings in the rear of the main building, and on the left side another building.

Q Was there any building on the right side of the main building?

A I believe there weren't any.

Q Was this hospital officially known as the 13th Army Hospital?

A It was called the Bacolod Army Hospital, 13th Bacolod Army Hospital, and the Bacolod Sanitarium.

COLONEL STICKNEY: 13th Bacolod Army Hospital, and Bacolod Sanitarium?

INTERPRETER SAITO: Yes, sir.

Q Do you know whether or not that was the hospital called the Provincial Hospital before the Japanese occupied Negros?

A That I do not know.

Q Besides these buildings which made up the 13th Army Hospital, or the Bacolod Sanitarium, were there any other places in Bacolod City that were used as hospitals?

INTERPRETER NAKAMURA: By hospitals, do you mean hospitals not only operated by the Japanese Army, but other hospitals?

MR. SCHAUER: Yes.

A Yes, there was one.

Q Do you know the name of that hospital, or what it was called?

A I cannot recall the exact name for it, but I believe it was called the civilian hospital.

Q Was the Bacolod Sanitarium in which you saw Lieutenant Nanjo at the various times, as you have testified earlier, located onacson Street?

A That is correct.

Q You say that you went to Bago around the end of November or the first part of December, 1944. Can you estimate the approximate date when you arrived at Bago?

A I do not recall.

Q You returned then, after a few days to Bacolod, is that correct?

MR. AITKEN: I am going to object to that now. Counsel is undertaking now cross-examination of his own witness, and if there is anything now to elucidate or bring out I think he should ask him some direct questions and not undertake a course of leading questions in cross-examination. The last question preceding was leading, but I did not object to it, but I am not going to stand for a series of them.

MR. SCHAUER: My only purpose in that particular

line of questioning is to make clear in my own mind some of the information which counsel brought out on cross-examination. But the activities of the witness were prior to the time of the first visit to the hospital. It is not my purpose to cross-examine him, and I don't intend to lead the witness. Will you mind repeating that last question? If it is leading, I withdraw it.

MR. AITKEN: I think a clarification of mind should be from the record, not by the record.

(The reporter read the last question.)

MR. SCHAUER: I will withdraw that.

Q How long did you stay in Bago?

A After I went to Bacolod to get some medical supplies I stayed in Bago for about a week.

Q Are you referring to the first time you went to Bago when you say you stayed there a week?

A No, I meant after we went to Bago, after about three or four days, and I returned to Bacolod to get the medical equipment, supplies, then I returned back to Bago and stayed for about a week.

MR. SCHAUER: I think that is all.

COLONEL STICKNEY: Anything further?

MR. AITKEN: No recross-examination.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q What version did you hear of the accident which brought the accused to the hospital?

A When I went to Bacolod I heard it from Tsumori about Nanjo. I heard that he received a wound and that he was in the hospital.

Q Did he accidentally shoot himself?

A I heard that Nanjo was in training practice, and during the course of training he was accidentally shot by a pistol shot.

Q Who told you that?

A Medical Officer Tsumori.

Q Did you hear when it happened?

A No I did not hear any mention of dates, but was told that it occurred the day before.

INTERPRETER SAITO: That is "yesterday," instead of "day before."

Q You were told it occurred the day before you came to Bacolod on your first trip from Bago, is that correct?

A I believe that is so.

Q And was it a shot from his own pistol, do you know?

A I heard that the pistol was fired by some other soldier.

Q Do you know who it was?

A That I do not know.

Q Well, where did this happen?

A Since the unit had gone to Bago, I believe this occurred in Bago.

Q If that is correct, it occurred in Bago while you were in Bago, did it?

A No, it happened while I was in Bacolod.

Q How long were you at Bacolod on that trip?

MR. WARD: Objection, that is, as to the clarity of the question. I believe it is ambiguous. Are you referring to the small trip?

COLONEL STICKNEY: It may be. I did not hear the last answer clearly. Will you read it back to me, please?

(Last answer read by reporter.)

Q It happened during your four days visit to Bacolod, is that correct?

A Yes.

Q Did it happen the day you arrived at Bacolod, the second day, the third day, the fourth day, that you were in Bacolod?

A I believe it was about the third day after I had arrived in Bacolod.

Q It happened on the third day of your four days in Bacolod, is that correct?

A I remained in Bago for about three or four days, then came to Bacolod. I remained in Bacolod for about three days, and on the third day when I was supposed to return to Bago I heard about the incident.

Q And did you return to Bago that third day, the day you heard of the incident?

A Yes, I returned that day.

Q And did you see Nanjo the day you returned?

A Yes.

Q Then you saw him the same day that you heard about the accidental shooting, is that right?

A Yes.

Q And the accident, according to Tsumori, had happened the previous day, is that correct?

A Tsumori told me that Nanjo had entered the hospital on the day before, and it is my guess that Nanjo had been hurt on the same day that he entered the hospital.

Q And Tsumori told you that the bullet wound was inflicted by accident by one of his soldiers at a training exercise in Bago?

A Yes, that is correct.

Q Did he mention the sort of a vehicle that Nanjo was riding in at the time of the accident?

MR. WARD: Objection. I don't believe the testimony of this witness states anything of the fact that the defendant, Nanjo, was in a vehicle when the accident occurred. So far as this witness' testimony is concerned, I believe it was initially stated by the Commission about this time and he stated merely as to how the accident occurred, but he didn't state that it happened in any vehicle or that there was an accident on that vehicle. If the Commission wishes to bring that up in a different method, it is all right, but I believe the question itself is objectionable.

COLONEL STICKNEY: Will you tell me another method?

MR. WARD: No. You mentioned "what vehicle,"
which assumes something not in evidence.

COLONEL STICKNEY: Not in evidence by this witness?

MR. WARD: That is correct.

COLONEL STICKNEY: But in evidence, nevertheless?

MR. WARD: But this witness knows nothing about it,
so in that respect you can bring up the accident; in other
words, you are assuming that this witness has already testified
it was a vehicle there.

COLONEL STICKNEY: I will withdraw that question.

MR. AITKEN: It is not assuming any facts that
are not in evidence. However, you are not assuming a thing
that is in evidence.

MR. WARD: In assuming it is in the testimony of
this witness, it is not in evidence.

MR. AITKEN: It doesn't have to be confined to
this witness.

COLONEL STICKNEY: Check me again, if I am wrong.

✓ Q It has appeared in evidence that at the time of the
accident Lieutenant Nanjo was riding in a vehicle. Does
that agree with your information?

A ✓ I don't know about that.

Q Do you know what caused the scratch on Nanjo's face?

A I don't know.

Q Were there any other Japanese killed or wounded at the
same time that Nanjo was shot in the leg?

A I don't believe there was at that time.

Q ✓ When did you first know Nanjo?

A Do you mean know his face or see his face?

Q Yes.

A I believe it was something like August or September 1944.

Q Where did you see him then?

A In Bacolod.

Q What was he doing?

A I met him at a party for the young officers of the unit.

Q Do you know where he was in July of 1944?

A I don't know.

Q Do you know anything about his having been a garrison commander at Boroboro?

A Yes, I heard about it.

Q Do you know when he was there?

A I believe it was until about the 20th of October 1944.

Q That was his station, then, at the time you met him at the party for the young officers -- in August or September?

A At that time I did not ask, so I am not certain, but I would guess that he was the garrison commander at Boroboro at that time.

Q You say that he ceased to be garrison commander on the 20th of October 1944, is that right?

A Yes, that is what I had heard.

Q Where did you hear that?

A On or about the 20th of October, all the garrison units were pulled into Bacolod because the unit was going to Leyte and at that time I assume that Nanjo also came back.

Q And what duty did Nanjo perform and where after the 20th of October 1944?

A The company was all together and stayed in one place in Bacolod. I don't know what his particular duties were.

Q When did he go to Bago?

A I think he went down to Bago at the same time the battalion headquarters went.

Q And when was that?

A That was either towards the end of November or the early part of December.

Q Then he was at Bacolod from the 20th of October until late November or early December, is that right?

A About the first of November I heard that the Takahashi unit went up to Victorias, which is north of Bacolod.

Q Did you know the Takahashi unit pretty well?

A I knew Captain Takahashi pretty well. I don't know much about the unit.

Q Did you know Nakatani?

A I don't know him.

Q It seems to me you have said that around late November or early December this platoon leader in the first company went to Bago, and in the next breath you said the company went to Victorias about the same time. Do I understand the company was split -- the company, less a platoon, went to Victorias and the platoon went to Bago? How do you explain that?

MR. WARD: We object to the question, both because it assumes something the evidence does not show and it is attempting by a later question to throw confusion on the testimony given by the witness. The witness said nothing of the sort in this answer. He stated that on October 20, 1944, all the units or companies of the Yamaguchi battalion were drawn or centered in Bacolod, because they anticipated going to Leyte. Then, again he said on or about the first of November the Takahashi company

went to Victorias. Then, again, on or about the end of November and the beginning of December they were sent down to Bago. He said nothing of the fact that the company was split on or about the end of November or first of December. Therefore, the Commissioner is assuming something that is not testified and which throws bad faith on the testimony of the witness.

COLONEL STICKNEY: There is no bad faith, and there is no intention to assume -- I would like to hear the answer which referred to Victorias.

(The reporter read the desired portion of the testimony.)

COLONEL STICKNEY: I withdraw my question.

MR. AITKEN: I don't think the Commission got all the evidence read at that time. I have some pretty full notes on it myself.

COLONEL STICKNEY: I have the official notes here. That is what I wanted. He went to Victorias the beginning of November and to Bago the end of November or the beginning of December. That is what I want.

Q Where is Lourdes?

A Lourdes is about half way between Granada and Bacolod, east of Bacolod.

Q And that became the force headquarters, is that correct?

INTERPRETER NAKAMURA: By "force" you mean --

Q Force headquarters -- that is the term he used awhile ago, for the Yamaguchi force.

A Yes.

Q And in late February you believe that Nanjo went to Lourdes, do you?

A I believe it was about the middle of March.

Q What makes you think he went there either in late February or in the middle of March?

A About the middle of March I fell ill from dengue fever and I was confined to the Bacolod Sanitarium. About the 20th of March I recovered and went to Lourdes, where I saw Nanjo.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours on the 24th of October.

(The Commission adjourned at 1500 hours, 23 October 1946, to reconvene at 0830 hours, 24 October 1946.)



I hereby certify that the foregoing is a full, true and correct copy of the original on file, in the case of United States of America vs Masao NANJO, as Defense Exhibit "A"

Bruton B. Schardt
BRUTON B. SCHARDT,
1st Lt., CAC
Executive Assistant
War Crimes Trials

United States vs Masao Nanjo
Defense Exhibit "B"
Received: 30 September 1946

23 October
RCS

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

VS

MASAO NANJO

PUBLIC TRIAL

VOLUME XVI

PAGES 953 TO 998, INCL.

MANILA, P.I.

DATE: 24 October 1946

COPY NO: 1

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

VS

MASAO NANJO

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
24 October 1946

Met, pursuant to adjournment, at 0930 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2nd LT. HAKUZO NITTA)
T/3 TAKEO SAITO) Japanese
2nd LT. TAICHI NISHIHARA)
2nd LT. JAMES NAKAMURA)

FILOMENA ZOSA)
PEDRO GENOVES) Ilongo (Visayan)
MACARIO E. BELONG)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0930 hours, 24 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the Defense Counsel Ward, the defendant and his personal interpreter, the assigned interpreters in Japanese, and the reporter, are all present in court. Will you remind the witness that he has been sworn and is proceeding under the oath administered?

(Interpreter Saito translated to the witness.)

CHIAKI KANDA

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nakamura and Saito:

MR. WARD: I believe at the end of the last hour the witness was on redirect examination?

COLONEL STICKNEY: I was thinking that the Commission was asking questions.

MR. AITKEN: That is right.

EXAMINATION BY THE COMMISSION (Continued)

BY COLONEL STICKNEY:

Q This is probably a repetition but I want to make sure. You came to Bacolod about the 22nd or 23rd of July, 1944, did you not?

A Yes, sir.

Q Then you went to Bago in early December or late November of the same year, is that right?

A Yes.

Q And in mid-December you returned to Bacolod for duty, did you?

A Yes.

Q Now, up until that time you had been performing duty as a medical officer at headquarters of the Colonel Yamaguchi forces, had you?

A That is correct.

Q And beginning in mid-December you stayed at Bacolod for how long?

A Up until the time of the American landing at Bacolod.

Q And when were you taken sick with dengue?

A Just a little before the 10th of March.

Q What duty did you perform at Bacolod from mid-December until just a little before the 10th of March?

A When the force's headquarters moved to Bago they left behind some patients, and besides the Kono headquarters did not have any medical officer -- consequently, I took over.

MR. WARD: Will the reporter read back that name, was that name "Kono"?

COLONEL STICKNEY: Will you read the whole answer, please?

(Answer read by the reporter.)

LIEUTENANT Nakamura: Strike that answer, please, and say: "When the Yamaguchi unit went down to Bago they left some patients behind. I took care of these. During one period I was ordered down on duty to Kono's headquarters to be its medical officer because they had none at the time. I came back to the Yamaguchi unit after their medical officer had arrived.

Q Where did you go to perform your duties with the headquarters of the Kono unit?

A The headquarters of Kono were in the rear of the Bacolod High School. I went there to serve.

Q And during that period from the middle of December 1944, until you became sick with the dengue before the 10th of March, 1944, how often did you see Nanjo?

A I am not clear on how many times I have seen him, but I believe it was about once or twice a week.

Q Now, was he still there when you got the dengue?

A Yes.

Q After your attack of dengue were you back for duty at the time of the American landing?

A That is correct.

Q How long had you been performing duties just prior to the American landing?

A I believe it was about ten days.

Q About ten days. On the day that you came back to duty were you on duty with the Kono headquarters or with the Yamaguchi headquarters?

A No, I served with the Yamaguchi headquarters. I served with the Kono headquarters from about the early part of November 1944 to about the middle of January 1945.

Q Then, you were with the Kono headquarters at the time that the Yamaguchi forces went to Bago, is that correct?

A At that time I was the medical officer taking care of the patients left behind by the Yamaguchi unit and also serving with the Kono headquarters.

Q Well, if you were with the Kono headquarters in early November 1944, why did you make two trips to Bago in December of 1944?

A The Kono headquarters is not the unit I am assigned to. I went to Bago which is my real unit by orders.

Q When did the Yamaguchi headquarters move from Bago to Lourdes?

A I was in Bacolod at the time and I cannot recall very clearly. I believe they had moved some time in mid-February to the latter part of February.

Q That was before you were taken sick with the dengue, is that right?

A Yes.

Q When the Americans landed, you went to Lourdes and you saw Nanjo there, is that correct?

A On about the 20th of March I recovered from the dengue fever. I then went to Lourdes and then I headed for the mountain positions and I returned to Lourdes again where I saw Nanjo. I also saw Nanjo on the day of the landing of the American forces.

Q Where were you the day the American forces landed?

A I was in Lourdes.

Q How long had you been in Lourdes?

A About four or five days. After I returned from the mountain positions I stayed in Lourdes for about two or three days and prior to going into the mountains I stayed in Lourdes for about a day or two also.

Q Now, you recovered from the dengue about ten days before the American landing, is that correct?

A About ten days.

Q And you were then at Bacolod?

A Yes.

Q How long after that before you left Bacolod?
How long after you recovered from the dengue at Bacolod before you left Bacolod?

A I was not completely recovered from the dengue as yet. The fever lasted for about a week and when I departed it was on about the 20th, that is of March.

Q And that was how long before the Americans landed?

A About ten days prior to the landing.

Q That was the day that you began doing duty after having had the dengue, is that right?

A For about a day or two I was just doing nothing at Lourdes, and they ordered me out again, even when I had not completely recovered from the fever.

Q But the day you left the hospital in Bacolod, that same day you proceeded to Lourdes, is that correct?

A I was never in the hospital. I was in the officer's quarters at the garrison.

Q Then the day you left your sick bed in Bacolod, that same day you went to Lourdes, is that correct?

A I stayed in Bacolod for two or three days after I was able to be out of bed, and then I went to Lourdes, but I was not completely well even then.

Q Were you out of bed at Bacolod two or three days before the 20th of March?

A Yes, that is correct. However, I did not go outside; I stayed indoors.

Q Now, the day or two that you were at Lourdes doing nothing, did you see Nanjo?

A I don't believe I saw him during that period.

Q After that day or two you went to the mountains, did you?

A Yes, I went to the defense positions in the mountains.

Q And at that time how long did you stay at the defense positions?

A I think the period of time when I left Lourdes and came back again was approximately four days. I believe I

stayed in the mountain positions two or three days.

Q Whereabouts in the mountains did you stay those two or three days?

INTERPRETER NAKAMURA: Do you mean the geographical location of the place?

Q Yes.

A I believe the mountain was called Korokabayo. It was called the Nishitaro Hill by the Japanese. It was located northeast of Lourdes. I would approximate around twenty to thirty kilometers. It was considerably north of Mount Silay, which is the highest peak thereabouts.

Q Was that at San Juan?

A I have no idea.

Q During those two or three days there did you see Nanjo?

A I did not.

Q When you returned from there to Lourdes, did you see Nanjo?

A Yes, I did.

Q What was he doing?

A I don't think he was doing anything in particular at the time.

Q What was the last time you had seen him prior to that?

A I believe it was about the time I had the dengue fever.

Q Did he come to see you at that time, or did you go to the hospital to see him?

MR. WARD: Objection. If the Commission will so please to specify which time -- either on the 29th of March,

or prior to the dengue fever, which would be prior to the 20th of March.

COLONEL STICKNEY: I will withdraw the question.

Q On this occasion when you had the dengue fever and you saw him, did you go to his hospital and see him, or did he come to your sick bed and see you?

A At that time Nanjo had been dehospitalized and he came to see me.

Q Yesterday you spoke of going to the Bacolod Provincial Hospital. How far was that from the Sanitarium?

MR. WARD: Objection at this time, unless through prior evidence if the Commission can designate there were two places or there was one place with two names. I don't believe the testimony so far has designated two places. If the Commission please, they can orientate each of the places. That is what defense intended to, because defense has information to believe it was one and the same place.

COLONEL STICKNEY: I will withdraw the question.

Q Yesterday you spoke of going to the Sanitarium and seeing patients there. You also spoke of going to the Bacolod Provincial Hospital on other matters and not seeing patients. Are these hospitals separate hospitals, and if so how far apart are they?

A Yesterday I said I had gone to see patients at the Bacolod Sanitarium, and I also said that I had gone to the Citizens' Hospital. I have never heard of a Provincial Hospital.

INTERPRETER NAJAMURA: Sir, I would like to make a correction here. You see, there is a term in the Japanese

language which means both citizen and province -- I mean the same pronunciation, but different character. We made the mistake yesterday in translating to him; consequently, the error came in.

Q Do you recall an occasion in early December, 1944, at Bacolod where a considerable body of troops were assembled to see the execution of five Filipinos?

A I don't know anything about it.

BY COLONEL MacKINTOSH:

Q Was the Bacolod Sanitarium entirely a military hospital or were civilians admitted there as well?

A Yes, it was a completely military hospital. Because there were no navy hospitals, some navy personnel were hospitalized there. However, no civilians got in it.

BY MAJOR FRITZ:

Q During the time you were stationed in Bacolod, did you perform surgery?

A I never did any operations. However, I have helped during operations. Small surgical operations such as lancing boils and things of that nature I did at the battalion headquarters.

Q Prior to December, 1944, did you ever see bullet wounds?

A Yes, I have.

Q Had you ever treated a wound similar to the wound received by Captain Nanjo prior to the time you saw him in the hospital?

A Yes, I have.

Q How many?

A I believe there were three or four individuals that I

treated.

Q Were all these wounds leg wounds, exactly similar to the one which Lieutenant Nanjo sustained?

A They were not similar to the wound of Nanjo. There was one man wounded along the thigh by the explosion of a hand grenade, and one man was injured on his hand by an accidental explosion of a pistol.

Q I am now referring to nothing but a bullet wound, and in particular I am referring to a bullet wound in the leg which pierced the muscle and punctured the shin bone. Had you ever treated a wound similar to that before?

A No, I haven't.

Q Have you ever treated a bullet wound before?

MR. WARD: I object. That was asked and answered. He said he had treated bullet wounds before, both before and after this accident occurred, just a few minutes ago.

MAJOR FRITZ: His testimony appears to be contradictory. When I asked him --

MR. WARD: I will withdraw the question, if it is not clear to the Commission.

MAJOR FRITZ: I would like to make it clear to you.

MR. WARD: I withdraw the objection, if --

MAJOR FRITZ: When he explained the type of wounds treated he mentioned a hand grenade and also a pistol accidentally having gone off in the man's hand. I am questioning him with reference to nothing but a bullet wound.

MR. WARD: I will withdraw the objection.

MAJOR FRITZ: Will you repeat my question, please?

(The reporter read the question.)

A The time the pistol accidentally went off, the man was shot through the palm of his hand and I applied emergency measures, which included stuffing the bullet wound with gauze and sterilizing it and sending him to the hospital.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito so informed the witness.)

BY MAJOR FRITZ:

Q When you stated earlier in your testimony that it would require three months' recovery before a patient with a similar wound would be able to walk again, your opinion then was an academic conclusion rather than one based on professional experience, is that correct?

A No, I have some experience also in that particular type of wound. I made this judgment on account of the following: there was no x-ray taken of the wound, and there was lack of surgery equipment, and proper surgical attention was not given, and also lacked adequate nourishment, and from these facts I concluded with the judgment it would require three months to heal. Actually the wound took longer than that period to recover.

Q As nearly as you can remember, on what date did Lieutenant Nanjo leave the hospital?

A I am rather certain it was somewhere in the middle of March, but the exact date I cannot recall.

Q Do you mean he was returned to duty in the middle of March?

A That I do not know.

Q Do you know the date he was returned to duty?

A No.

Q As nearly as you can remember, what date was it when you last saw Lieutenant Nanjo in the hospital?

A It was about the middle part of February.

MR. AITKEN: May I have that question and answer, please?

(Question and answer read by reporter.)

Q At that time was he an ambulant patient?

A I did not actually see him walk, but he did have crutches and I presume about that time he was able to do so with the aid of those crutches.

Q When you first saw Lieutenant Nanjo in the hospital, did he have any other obvious injuries?

A The first time I saw Nanjo, he was asleep in bed. I believe he may have had a bandage on his face, but I am not certain about it. The second time I saw Nanjo, I believe the face had a scab covering over the injury on the face, and I believe the obvious injury at that time was the leg.

Q Can you describe the scab covering or state what in your opinion caused the injury to the face?

A I did not pay close attention to the scab covering on his face, and my attention was focused on his leg.

Q During the time that you knew Lieutenant Nanjo, did he wear glasses?

A I believe he may have had glasses on on occasions and sometimes without it.

BY COLONEL STICKNEY:

Q He wore glasses in the mountains, didn't he?

A Yes, he had glasses on.

BY MAJOR HERR:

Q I understood you to say you were the senior officer of two medical officers at Bacolod in 1944, is that correct?

A No, I did not state so, because at the Yamaguchi unit there is a 1st Lieutenant Toyosaki, who is my superior. And at the Bacolod hospital there is 1st Lieutenant Yamasaki, who is the head of the station there. And at the surgical department there is the Probationary Officer Tsumori.

BY COLONEL STICKNEY:

Q What troops were in Bacoled in December 1944?

A During that time the Kono headquarters was located there and also the Hori unit headquarters. There were some troops connected with the air unit there.

COLONEL STICKNEY: Anything further from the defense?

MR. WARD: Yes.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q You stated on March 29, the day the Americans landed, you were in Lourdes and saw Lieutenant Nanjo, is that correct?

A Yes.

Q You stated that you believed he was not on duty, is that right?

A That is correct.

Q Do you know whether he was still under the jurisdiction of the hospital?

A I don't think so. I believe he was receiving treatment at the unit headquarters.

Q Do you mean by that that he was under the jurisdiction yet of the military doctor?

MR. AITKEN: Just a moment. I am going to object to the counsel leading his witness. It is not his privilege to cross-examine. He is privileged to ask anything in direct examination, but not to ask suggestive questions; do you believe such and such a thing -- to elicit an answer such as he wants.

MR. WARD: The answer to the last question was that he was still receiving medical treatment. Therefore, it is not suggesting, it is merely clarifying. I want to know if it was a military doctor he was receiving treatment from, or whether he was attached to headquarters. It is clarifying his last answer; it is not a leading question.

MR. AITKEN: All questions preceding this last were slightly tending towards cross-examination. I did not object to it at the time because it had not gone too far. Now, he is beginning to suggest his answers.

COLONEL STICKNEY: The objection is not sustained.

A Yes, that is correct.

Q What was his condition then, either as to his wound, if you know, or as to his walking ability?

A What time do you refer to?

Q At that time, March 29.

A At that time I believe he was walking with the aid of a cane. As to the condition of his wound, the rear part of the muscle of the calf was rather well, but the front was not as yet well, because the probe could be inserted for about 2 inches into the wound at the front.

Q Do you know if there were more men under the jurisdiction of the military doctor on March 29?

A Yes, there were.

Q Were these men sent to the mountains?

A That is right.

Q Was the defendant, Nanjo, one of these men?

A Yes.

Q Do you know how or when they were sent to the mountains?

A On the eve of the 29th of March, the Americans neared the City of Bacolod. I was sent to an outpost in the city and on the evening of the 30th I retreated back to Granada. At that time Nanjo and several other patients were already there. There were about four or five patients with severe wounds and were not able to walk. The ones with the severe wounds were loaded on a truck and departed for the mountains on the eve of the 30th. The ones that were able to walk I ordered them to follow the road and head for the mountains by foot.

COLONEL STICKNEY: The Commission will recess and will reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, Defense Counsel Ward, the defendant and his personal interpreter, the interpreter of Japanese, Saito, and the reporter, are all present. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

CHIAKI KANDA

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreter Saito:

REDIRECT EXAMINATION (Continued)

BY MR. WARD:

Q Have you ever heard of the Decogan Hospital?

(Reporter asked for spelling of "Decogan." Mr. Ward informed her that the spelling given was his own spelling.)

A Is that in Bacolod?

Q Bacolod, yes.

A Is that English?

Q I don't know.

A I do not know.

Q I will try another pronunciation. Have you ever heard of the Decogoon Hospital?

A Yes.

Q And where was that?

A That is in Bacolod and it is called the 13th Army Hospital, the Bacolod Sanitarium.

Q Is that the hospital at which Lieutenant Nanjo was kept during the time of his leg injury?

A Yes.

MR. AITKEN: At this point I would like to state that I don't want to be hopping up all the time objecting to leading questions. I would suggest that counsel ask his questions directly and not leading.

MR. WARD: Which question was leading then, Mr. Aitken?

MR. AITKEN: The last one.

MR. WARD: The witness already testified in previous examination that Lieutenant Nanjo was in the Bacolod Sanitarium, or military hospital. It is merely repetition of the last question to clarify his former testimony and is not in the least bit leading. If that would be an initial question that had not been covered before, counsel would be right, but at this time it is not. This is for the purposes of the record.

Q I wish to call your attention to this map -- again, at this time, may we place the map on the Commission's table?

COLONEL STICKNEY: Yes.

Q Calling your attention to a large-scale map of Negros Island -- calling your attention to this area, the city of Bacolod, can you indicate the Japanese position in the mountains? That position which you state you visited on or about the 21st through the 24th of March in that period 1945? 21 to 24 approximately.

MR. AITKEN: Let the record show that Interpreter Nakamura entered the courtroom.

A The positions are in this area.

MR. WARD: Let the record show that the area indicated is the same area that was referred to as the Japanese position by Lieutenant Yamanouye, the last Japanese witness.

COLONEL STICKNEY: And still marked by three pencil marks.

Q You referred in the cross-examination to the name "Kono." What was his position in the Japanese Army?

A Lieutenant General Kono.

Q And what area did he command?

COLONEL STICKNEY: Do you want to put a time on that?

Q During this period.

A I do not know exactly. I have just heard that he is in charge of the Visayans.

Q Do you know if the Yamaguchi company was under the Kono authority or was within the Kono forces?

COLONEL STICKNEY: I would like to hear that question.

(Question read by the reporter.)

COLONEL STICKNEY: The Yamaguchi company?

MR. WARD: The Yamaguchi brigade, excuse me.

COLONEL STICKNEY: The Yamaguchi brigade?

MR. WARD: Yes.

COLONEL STICKNEY: I have never heard of such a thing.

MR. WARD: Well, several companies would be what, sir?

MR. AITKEN: They call them battalions.

COLONEL STICKNEY: It was spoken of by the witness as his forces.

MR. WARD: All right, I will withdraw the last question.

Q Was Brigadier General Kono, Colonel Yamaguchi's superior?

INTERPRETER NAKAMURA: May I have the question and answer, the one before that?

MR. WARD: I withdrew the last question.

INTERPRETER NAKAMURA: I mean the one before that.

(Reporter read the desired portion of the record.)

INTERPRETER NAKAMURA: You mean Lieutenant General Kono?

COLONEL STICKNEY: You said Brigadier General, you meant Lieutenant General.

MR. WARD: Lieutenant General Kono was Colonel Yamaguchi's superior?

A Yes, I believe so.

Q You mentioned the name "Hori" in cross-examination. To whom were you referring when you mentioned that name?

A Major Hori.

Q Was Major Hori under the command of Lieutenant General Kono?

A I believe that is so.

Q On cross-examination you stated that the Takahashi company was sent to Victorias some time during October, is that correct?

A I did not personally see the Takahashi company in Victorias, but I have heard that it went there.

Q Then, as to any date of the departure of the Takahashi unit to Victorias, it is merely an estimate on your part, is that correct?

A Yes, that is correct.

Q When the Takahashi unit left Bacolod, who then was put in charge of the Bacolod area?

A At that time the Hori unit took over the duties of the Takahashi company in Bacolod.

Q Do you know where the Japanese M.P.'s, or Kempei Tai were stationed in the city of Bacolod?

A Yes, I do.

Q Where in relation to the market place in Bacolod?

A I believe it was approximately one hundred meters south of the market place.

MR. WARD: That is all the redirect examination.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: Yes, I have a question or two.

FURTHER RECROSS-EXAMINATION

BY MR. AITKEN:

Q Since testifying here yesterday afternoon, have you conversed either with the defendant or his personal interpreter?

MR. WARD: I object to that. It is completely immaterial. If there is some purpose in it I am willing to withdraw the objection. I object, as it is completely immaterial.

MR. AITKEN: That does not require any argument. Of course, I can ask a question of that kind, "If he conversed" or made any changes in his testimony or not. The inference is he may have been prompted.

MR. WARD: That would have been a proper question this morning if there had been some change in

his testimony. There has been none as inferred by counsel. A better question would be, "Had I talked to this man since he testified this morning" as to any changes in the testimony, but it would have to be based on some reason of change. If the counsel can point out change in the testimony somewhere that might be a material reason for the question. Otherwise, it is completely immaterial. If counsel will point out a change in the testimony I will withdraw my objection.

COLONEL STICKNEY: This sounds so much like the questions asked by the defense counsel with the prosecution's witnesses when they were cross-examined.

MR. WARD: Correct and I have done that. We have asked that question and it was objected to by the prosecutor, and at that time we showed the reason for that question and the change in testimony. At this time I am willing to withdraw my objection if he shows a change in the testimony.

MR. AITKEN: It was never objected to by the prosecution any such question.

COLONEL STICKNEY: The objection is not sustained.

A No.

Q Just prior to the opening of this session were you not in conversation with the interpreter of the defendant at the defendant's table with the map in front of you?

A I had the map shown to me by the defense counsel.

Q And it was shown to you over at the table where the defendant is now seated and you were over there and you

spoke also with the interpreter of the defendant, did you not?

A I talked with the interpreter only as the mouthpiece for the defense counsel.

MR. AITKEN: Only what?

INTERPRETER NAKAMURA: As the mouthpiece for the defense counsel.

COLONEL STICKNEY: Will the reporter read the answer, please?

(Last answer read by the reporter.)

INTERPRETER NAKAMURA: Put that as "interpreter for the defense."

MR. AITKEN: Will you kindly repeat the question to the witness and ask him to answer it directly?

(Question by reporter.)

Q (Continued) And it was shown to you, referring to the map.

INTERPRETER NAKAMURA: What is the question you want?

Q And the map was shown to you at the table of the defendant in the presence of the defendant's counsel, and you spoke at the same time with the interpreter of the defendant with reference to the map, isn't that true?

Q Yes, I looked at the map. However, I did not speak with the interpreter.

Q Did he speak to you?

A The interpreter talked to me when he was interpreting a question by the defense counsel in regard to the army

hospital.

Q Weren't you discussing at the time that I just referred to, the map that was just exhibited before on the table of the Commissioner's with reference to what you testified as to that map?

MR. WARD: I think it will be a matter of clarifying matters. Counsel was asleep on the chair over there and he is trying to confuse the witness, because it is difficult in the translation, where I showed the map to the witness, and Takahashi was interpreting, was on the Commissioner's table and the defendant was not sitting there. Now, if he will ask the witness the correct question as to that one detail it might bring it out more clearly. The question is obviously confusing the witness.

MR. AITKEN: I want to say this, that in about forty-five years of practice I have never before a Commission or court got up and made a false statement, and I haven't made it a practice of accusing other counsel of doing the same. But, when he said at that time I was asleep in the chair, he was not telling the truth.

MR. WARD: You were lying down there.

MR. AITKEN: Not at that time. I was sitting here and watching what you were doing.

COLONEL STICKNEY: I think we are not interested in the comments of the defense counsel at this time. However, I think there is a difficulty in this question. I believe you are asking a two-fold question. You are asking him if he was looking at a map at that time at the

table and you were asking if he were talking to the interpreter.

MR. AITKEN: I understand and especially in Japanese it is difficult to translate a double question.

Q Just prior to the opening of this session, is it true that you stood over there by that table and spoke to the defense counsel and to or through the interpreter of the defendant?

MR. WARD: Objection.

MR. AITKEN: I am breaking the question up.

MR. WARD: Objection here, it has already been asked and answered. He stated he already did talk to the interpreter and myself in regards to the army hospital. It has just been asked and answered. There is an objection.

COLONEL STICKNEY: I would like to hear the question again.

MR. AITKEN: I am attempting to break up the other question, that is all.

(Question read by the reporter.)

COLONEL STICKNEY: Assuming that this is a preliminary question, the objection is not sustained.

Q Answer it "yes" or "no."

A No.

Q (Procuring map from table of defense counsel) You deny that you were over at that table with the defense counsel and that you had this map open in front of you and that you were discussing something concerning the surface of the map?

A No, I don't deny it. The defense counsel and I looked at the map while it was spread on the Commissioners' table before the court opened, and he asked me whether I knew the fortified area I was talking about, and I said, "Yes," and pointed it out to him.

Q Wasn't the map spread open there on that table over there (referring to the table occupied by the defense)?

MR. WARD: Objection as asked and answered. He said it was up here (indicating) and not over here. I don't see the materiality of it.

COLONEL STICKNEY: The objection is not sustained.

A That is wrong.

Q But your answer is that you did not, is that right?

A Yes.

Q Then, if it was open on the table of the Commissioners prior to the session, were you discussing the feature that you testified to with reference to the position locations on the map?

MR. WARD: Objection again -- just asked and answered. He stated just a moment ago that I asked him.

MR. AITKEN: I will withdraw it. He said he did.

MR. WARD: Certainly.

MR. AITKEN: That is all.

MR. WARD: No further questions.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I would like to ask, even if you could testify that the first company went to Victorias definitely on a certain date, did that mean necessarily that Nanjo went there on that date?

A That I would not know because I did not see the company depart. However, I did hear that the entire company went to Victorias.

Q From whom did you hear that?

A I don't remember from whom I heard it.

Q When did the entire company go to Victorias, according to the information that you had?

A I did not hear about when it went to Victorias.

Q Could you tell me whether it was in October or in November 1944?

MR. WARD: Objection again. If the correct question would be, "Can you tell me when on or about October," it would be limited to one or two months.

COLONEL STICKNEY: The witness has given a date for this and defense counsel has mentioned a date for this, and the two dates are not the same, and it is desired to find out if this witness can tell when this information was given that this entire company went to Victorias.

MR. WARD: Is it the Commission's belief that this witness ever stated during the month of November the company went to Victorias?

COLONEL STICKNEY: That is my thought.

MR. WARD: I withdraw the objection.

A I heard that the unit gathered in Bacolod about the latter part of October, or the first of November, and it was supposed to have gone to Victorias soon afterwards.

Q Did you know a Lieutenant Nishikawa in the first company?

A Yes.

Q Do you know whether or not he went to Victorias in early November?

A I don't know.

Q Do you know of any occasions where Lieutenant Nishikawa's platoon was located in a different place from the headquarters of the first company?

MR. WARD: Objection. This is entirely immaterial to the count at hand. I mean unless there is some materiality between Nishikawa at this time, it is a completely new name to the testimony.

COLONEL STICKNEY: I want to find out how much this witness knows about the movements of the companies and of the component parts thereof, including the part commanded by the accused.

MR. WARD: Objection withdrawn.
(Reporter read the question.)

MR. WARD: Objection to that again, sir, on the ground that it should be more definite. If you can set down a certain period, that might be satisfactory, but just to make a grand opening statement when these companies have been down there for a year and a half to two years -- to say, "Did this company vary from this company" and what times they did so, half of it would be completely immaterial, unless it was designated to some certain incident in these Specifications. Therefore, the defense's objection will be

completely withdrawn if the President of the Commission would specify a certain date was this Nishikawa with this company.

COLONEL STICKNEY: I want to find out what this witness knows. His answer may be "No, I don't know," or it may be a very voluminous answer, "On many occasions" --

MR. WARD: Most of those occasions might be entirely immaterial to the Specifications. The question, if directed to a certain date, might be material. This way it is immaterial and would be much too large and voluminous a question.

COLONEL STICKNEY: I am anxious to find out how much of this hearsay testimony you have centered on the part of this witness amounts to, if anything.

MR. WARD: Which hearsay testimony?

COLONEL STICKNEY: The hearsay testimony that the entire company went up there on a certain date.

MR. WARD: That information was brought forth completely on the questions of the Commission and the prosecution. That was not brought forth at all originally by the defense. In fact, none of his trip whatsoever. The original evidence put on by the defense was as to the defendant's being in the hospital and this was a later development that brought this about. However, as I stated, if the Commission will direct a time or mention many times, that is perfectly satisfactory with the defense, but otherwise there will be an objection to the main question.

COLONEL STICKNEY: I wish to know many times, a few times, or not at all.

MR. WARD: You may certainly overrule the objection, sir.

MR. AITKEN: I have a note here taken yesterday which says: "About November 2st I heard the Takahashi unit went to Victorias." That was the statement of this witness.

MR. WARD: That is correct. He just stated that. I am merely making a statement as to the comparison of Nishikawa and the company. There is an objection to opening a complete field and making such a general question. I will certainly withdraw my objection as to a specific date if the date is limited with the period of the Specifications.

MR. AITKEN: I might add now that any question now that would tend to test 'his witness' memory or knowledge is a proper question.

COLONEL STICKNEY: I believe that is so. I will withdraw that question.

Q Do you know of the times when Lieutenant Nanjo and his platoon were at one place, the company commander was at another, and possibly Nishikawa was at a third?

MR. WARD: Is there going to be a further date?

Q Of any date.

MR. WARD: Objection again, as it could reasonably be, way without the Specifications. Again mentioning the fact that these Specifications include a certain period of time, there will be no objection by the defense if a date specified.

Q I will make it between January 1944 and April 1945.

MR. WARD: Satisfactory. Objection withdrawn.

A I have no idea of these things.

Q Well, you do know of occasions when Nanjo was at Boroboro and the company was not at Boroboro, is that correct?

A Yes, that is correct. I did so testify. However, I would like to make a correction now. Yesterday in my testimony I got my memories confused. The truth of the matter is this: about January 1945, when Nanjo was hospitalized, I went to visit him and during this visit there was a Filipino there who had come in to see him from Boroboro. At this time Nanjo told me that he had been in Boroboro quite some time ago and that the residents from Boroboro came to see him quite frequently. About my having testified yesterday that Nanjo had been in Boroboro on or about October 1944, that is incorrect. In October I had no idea where other officers were stationed. This was when I had come just very lately to Negros and I was unfamiliar with the names and faces of most of the officers and had very little knowledge of geographical place names. Consequently, I have absolutely no recollection of where various officers were stationed during that period.

MR. AITKEN: I would like to ask the information from the interpreter as to whether he used the word "Filipino" or "Filipina" as a visitor to the hospital. I didn't hear it clearly.

COLONEL STICKNEY: Does the reporter have it?

(The reporter read the desired portion of the testimony.)

INTERPRETER NAKAMURA: He didn't say a sex at all. In Japanese he wouldn't mention sex; he would merely say a person of Filipino blood.

MR. AITKEN: Then the translation wouldn't be quite accurate for the purposes of the record, because, to say "Filipino," you mean a man.

(Interpreter Nakamura spoke to the witness.)

✓ INTERPRETER NAKAMURA: It refers to a Filipina.

MR. AITKEN: A woman?

✓ INTERPRETER NAKAMURA: Yes.

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X Q You have volunteered the uncalled for information that there was a girl who came down to see him at the hospital, but wherein have you changed yesterday's testimony?

A I believe yesterday I said that I believed Nanjo had been in Boroboro up until about October, when the various units were gathered together in Bacolod, in response to a question about when Nanjo had been in Boroboro. I merely want to correct this belief of mine, which seemed to come out of my own knowledge. It was actually hearsay evidence from Nanjo's own lips, while he was in the hospital in January 1945, and Nanjo did not specify the time when he had been stationed in Boroboro.

✓ COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

COLONEL STICKNEY: Anything further?

MR. WARD: Nothing further.

COLONEL STICKNEY: Anything further from the prosecution?

MR. AITKEN: Nothing further.

COLONEL STICKNEY: That is all for this witness, he is excused.

(Witness excused)

MR. WARD: At this time we will call Captain Takahashi.

TANSAKU TAKAHASHI

a witness for the defense, being first duly sworn, testified as follows through Interpreters Nakamura and Saito:

COLONEL STICKNEY: If the interpreter will help me, I would like to explain to this witness that he has been called as a witness in the case of the United States of American vs Masao Nanjo. The Commission is anxious to find out all the facts pertaining to the specifications against Nanjo, and it is not interested in any charges that may be or may have been preferred against the witness. If he feels that any question asked him could be used against him in other charges, he need not answer.

(Interpreter Saito translated to the witness. The witness answered "I understand.")

DIRECT EXAMINATION

BY MR. WARD:

Q Your name?

A Tansaku Takahashi.

Q And your age?

A Forty-three years old.

Q Your rank in the former Japanese Imperial Army?

A Captain.

Q The name of your immediate superior?

A Masakazu Yamaguchi.

Q The name of Colonel Yamaguchi's superior.

A Takeshi Kono.

Q Where were you stationed during the period of December 1943 through August 1945? To put that question more specifically,

what island?

INTERPRETER SAITO: Is that 1945?

MR. WARD: Yes.

Q On what island were you stationed between December 1943 through August 1945?

A The island of Negros.

Q Where was your company stationed during the month of December, 1943?

A The company headquarters was at Bacolod, and I was at Bacolod.

Q What was the purpose of you being stationed at Bacolod, what were the duties of your company?

A For the purpose of security.

Q What area was within the jurisdiction of your company?

A The area of the security is as follows: It covers Bacolod, Murcia, and Manapla. It is north-south direction and it covers sixty kilometers, and Bacolod to Murcia which is east -- west direction and it covers fifteen kilometers.

COLONEL STICKNEY: I would like to hear that first town, Bacolod, Murcia and --

INTERPRETER SAITO: Bacolod and Murcia.

COLONEL STICKNEY: I thought there was a third one.

INTERPRETER SAITO: The other one was Bacolod -- Manapla...

COLONEL STICKNEY: I will have the reporter read it.

(Reporter read the answer.)

COLONEL STICKNEY: Manapla, that is what I am after.

INTERPRETER SAITO: Will you please delete Murcia in the first one? It is Bacolod to Manapla, sixty kilometers.

MR. WARD: Is that correct, now?

INTERPRETER SAITO: It is correct.

Q Was the Barrio Boroboro within your jurisdiction?

A Yes.

Q How many companies beside your own were under the jurisdiction of Colonel Yamaguchi?

A Four other companies beside my company.

COLONEL STICKNEY: I would like to ask, a minute ago you were talking about December 1943, have you left December 1943 yet?

MR. WARD: No.

Q How long a period of time were you stationed in Bacolod starting December 1943?

A I was in Bacolod from December 1943 up to the latter part of August 1944.

Q And where then did you go?

A And then I went to Victorias which is approximately fifty kilometers northward.

Q How long were you at Victorias?

A From the latter part of August up to the first part of December.

Q Was your whole company transferred with you from Bacolod to Victorias?

A Yes, the whole company went.

Q At that time who then took over the security of the Bacolod area that you just described?

A The Hori battalion.

Q Was the Hori battalion connected with the Yamaguchi battalion, or not?

A There is no connection between the Hori battalion and the Yamaguchi unit. They are both battalions.

Q And they were both under the jurisdiction of Lieutenant General Kono, is that correct?

A That is correct.

Q When your company was transferred from Bacolod to Victorias, was your complete staff of officers and men transferred with you?

A About the end of August they were all at Victorias.

Q Calling your attention to the defendant, Lieutenant Nanjo, have you seen him before?

A Yes, he was my subordinate.

Q Was he your subordinate at the time your company was transferred from Bacolod to Victorias?

A Yes.

Q Was Lieutenant Nanjo included in that company you mentioned that was completely transferred by the end of August 1944 to Victorias?

A Yes.

Q Was Lieutenant Nanjo given duties in Victorias, and if so what were they? That is, generally.

A At that time he was in charge of the educational training.

Q You stated educational training, is that correct -- the training of troops?

A That is correct.

Q You stated you stayed at Victorias until the beginning of December or the end of November. Where did you then go?

A I went south to Bago.

Q Did your complete company accompany you?

A They all went.

Q When did you arrive in Bago?

A On the 5th of December.

Q Where is Bago, in relation to Bacolod?

A Bago is approximately seventeen or eighteen kilometers south of Bacolod.

Q And where is Victorias in relation to Bacolod?

A North about fifty kilometers.

Q How long did your company stay in Bago?

A From the early part of December until the 24th or 25th of the same month.

Q During the first part of your stay in Bago, did anything happen to Lieutenant Nanjo?

A Yes.

Q What?

A Lieutenant Nanjo was injured and was sent to a hospital.

Q How did that injury occur?

A During the course of education in battle against tanks one of Lieutenant Nanjo's soldiers accidentally shot him in the leg with a pistol.

Q Were you present at this time?

A I went to the place where the accident happened later.

Q What happened to Lieutenant Nanjo immediately after he was shot?

A Nanjo was immediately loaded on a truck and sent to the hospital in Bacolod.

Q Can you remember what day this occurred?

A In my memory it is the day following our arrival in Bago, which makes it the afternoon of the 6th.

Q Did you have occasion to visit Lieutenant Nanjo in the hospital after this accident?

A Yes, I went to see him.

Q When was that?

A I went many times so I cannot remember exactly when.

Q Over what period of time?

A I went to see him in the hospital over a period of time extending from the time he was hospitalized until the American army landed in March.

Q You stated that your company stayed in Bago until approximately the 24th or 25th of December, 1944. Where then was your company transferred?

A We received orders from the brigade and as a reserve unit for the brigade we went to Granada.

Q How long did you stay in Granada?

A At Granada we left one platoon and the other two platoons went to Murcia and stayed there until about the end of March.

Q At the end of March where did the other two platoons go?

A While we were stationed in Murcia we did not stay

there always. We went to the hills to construct defensive positions and did other things, with Murcia as the headquarters.

COLONEL STICKNEY: I would like to hear that answer.

(The reporter read the answer.)

Q When did Lieutenant Nanjo again rejoin your company?

A About the 2nd of April.

Q Previous to the 2nd of April, do you know where Lieutenant Nanjo was?

A I wish to make a correction. It was towards the end of March that Lieutenant Nanjo joined us.

COLONEL STICKNEY: That is, instead of the 2nd of April, the end of March?

A Yes. Before Nanjo joined us he was in the hospital in Bacolod.

Q What duties was Lieutenant Nanjo given upon his return to your company?

A Because his wound had not completely healed, I let him convalesce.

Q What was your company doing at this time?

A We were the defensive unit on the left wing of the Kono brigade.

Q (Indicating map) Will you please indicate where your position was on this map to the Commission? Will you come up here, please? (Witness, the interpreters, counsel for the prosecution and counsel for the defense all consult map before the Commission.) This is the

city of Bacolod (indicating).

A (Indicating on map) This is approximately where our positions were.

COLONEL STICKNEY: The witness used a pencil and marked a large circle with San Juan as its approximate center and extending south to include the dome-like hill to the south, and on the west slope of that hill with his pencil he marked two positions.

MR. WARD: And would the Commissioners tie in the approximate area between the designation of Captain Takahashi and the designation of Lieutenant Yamanouye and Dr. Kanda, as to the approximate positions indicated. In other words, for the purposes of the reviewer, we can't get enough of these maps to append to the record. I would like the Commissioner to indicate whether or not this was the approximate region as indicated by two other witnesses who testified as to the Japanese positions in the hills.

COLONEL STICKNEY: The three pencil marks placed on the map previously still appear thereon and the two northernmost of those were very closely the positions which this witness also marked. The third semi-circle appearing south of the Imbang River was not included in the area indicated by this witness.

Q How far from the defensive position in the hills indicated by you upon the map would Bacolod City be in kilometers?

A It is approximately twenty kilometers, as the crow flies.

Q Approximately how much by any road, if any went to that vicinity?

A Approximately twenty-five kilometers.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours on the 25th of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 25 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XVII
PAGES 999 TO 1041 INCL.

MANILA, P.I.

DATE: 25 October 1946

COPY NO: 1

/dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
25 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	Japanese
2d LT. TAICHI NISHIHARA	)	
2d LT. JAMES NAKAMURA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

/dsh

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Tansaku Takahashi (cont'd)	1000	1014 1024		1035	

P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 25th October 1946, in Court No. 2, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the assigned interpreters in Japanese, and the reporter are all present in court.

Will you remind the witness that he is proceeding under the same oath already administered?

(Interpreter Saito translated to the witness.)

TANSAKU TAKAHASHI

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Seito:

DIRECT EXAMINATION (Cont'd)

BY MR. WARD:

Q When did the Americans land on Negros?

A The 29th of March 1945.

Q Where were you stationed at that time?

A I was pulling out of Murcia in order to proceed to the mountain positions.

Q When did the American forces begin attacking the mountain positions you have previously described?

A I believe it was about the 5th or 6th of April.

Q Calling your attention now to the various places of duty of Lieutenant Nanjo during the period of January 1944 to April 1945, as I give the approximate month, will you give Lieutenant Nanjo's place of duty? On or about the month of January 1944, where was Lieutenant Nanjo stationed and what were his duties?

A Don't you mean from the period of 1943?

Q Where was Lieutenant Nanjo stationed?

INTERPRETER SAITO: Don't you mean the period from October 1944?

MR. AITKEN: The question is quite clear.

INTERPRETER NISHIHARA: Don't you mean the period of January 1943, instead of January 1944?

MR. WARD: No, I mean January 1944, where was Lieutenant Nanjo?

INTERPRETER SAITO: No, I did not state the date yet, but the period of time from January 1944 to April 1945 you stated.

MR. WARD: Yes.

INTERPRETER SAITO: Don't you mean instead of January 1944 it to be January 1943?

MR. WARD: No, January 1944.

A He was at the company headquarters at Bacolod.

Q And his duties?

A Officer in charge of education.

Q How long did Lieutenant Nanjo stay in Bacolod as officer of education?

A He was in charge of the education up until the time he went to Boroboro garrison.

Q When was that?

A Do you mean when he got the duty as a garrison commander of Boroboro?

Q Correct?

A My recollection is from the period of the 4th or 5th of February to the 7th or 8th of May.

Q And at that time where was Lieutenant Nanjo sent on or about the 7th or 8th of May?

A He returned back to the company headquarters.

Q And his duties then?

A He resumed the duties of educational officer.

Q How long did he remain as educational officer at Bacolod?

A He served as officer in charge of education up until the time he was wounded -- that is about the 5th or 6th of

December 1945.

INTERPRETER SAITO: Correction please. The date is the 5th or 6th of December 1944.

Q You testified yesterday that your company was sent to Victorias. At that time do you mean Lieutenant Nanjo's duties were still the education of troops?

A Yes.

Q Will you describe the extent, if any, of guerrilla warfare in the vicinity of Bacolod and Occidental Negros generally, if you know?

MR. AITKEN: Objected to as immaterial on the ground there was nothing with reference to guerrilla warfare connected with any of these Specifications.

MR. WARD: This objection has been raised if once, it has been raised at least ten times. The reasons for bringing out guerrilla activities are just as obvious. The Specifications charge that Lieutenant Nanjo committed various acts of violence against Filipinos designated specifically as civilians, that is part of the Specification. To break down any part of the Specification is the duty of the defense. Therefore, it is completely within that topic and certainly competent and material evidence to show that their charge that these men that are designated as civilians were in reality guerrillas, or reasonably should have been guerrillas due to the amount of guerrilla activity in that vicinity.

COLONEL STICKNEY: You are going to get a broad general answer to your question, aren't you?

MR. WARD: A specific one and broad one both.

COLONEL STICKNEY: Objection is not sustained.

A I will describe the guerrilla activities in the area in the vicinity of Bacolod, the water-shed, and Granada. The commanding officer of the guerrillas in that area was Captain Pineda. The strength of the guerrillas was approximately 700 to 800. Bacolod was the headquarters of the Yamaguchi, the Nakashima, and the Yamanouye units. Because of this, there were no raids into Bacolod itself. However, the area immediately out of the city was considered guerrilla territory. The Murcia and Boroboro garrisons had the most difficult times with the guerrillas, since they were approximately twelve to thirteen kilometers away from Bacolod and relatively close to the mountains. The Boroboro garrison consisted of about ten Japanese soldiers and five or six members of the Philippine standing army. The Murcia garrison consisted of fifteen or sixteen Japanese soldiers and seven or eight members of the Philippine standing army. More troops could not be stationed in those localities. Boroboro and Murcia were frequently subjected to guerrilla attacks.

I will cite an example of misconduct of the guerrillas. I had made it possible for a train to go from Boroboro to Bacolod. The purpose of this was to haul provisions from the mountains to Bacolod and also to haul provisions from Bacolod to the mountains, and this was planned for the convenience of the people there. The guerrillas attacked this train, loaded with civilians, and killed one Filipino woman, one child and four men. I believe this was a very atrocious act.

Citing another incident: the Boroboro garrison had established a market place at the Boroboro train station.

This place was frequently subjected to guerrilla attacks and it was robbed and pillaged and finally burned. The commanding officer of the Boroboro garrison was Yanai, and he was killed by guerrillas on the way to this market place at the station.

Citing another example: Boroboro and its vicinity was considered the water-shed of Bacolod, and was a very important area for the people and Pineda's men destroyed this valuable pipeline.

There are many more such atrocious acts, as well as killings by the guerrillas and the units which had the most difficult times were at Murcia and Boroboro garrisons.

INTERPRETER SAITO: Do you want the general Occidental Negros guerrilla situation too?

MR. WARD: As well. Just generally, however. Their strength, etc.

A (Continued) I was placed in charge of the security of the Bacolod-Manapla area about October of 1943. The Takahashi Unit placed garrisons at Murcia, Boroboro, Talisay, Silay, San Ramon, Victorias and Manapla. In the Murcia area was the Hinson Battalion. In the Murcia, Boroboro and Talisay area was the Pineda Battalion. In the Silay area, the Infante Battalion. In the Victorias-Manapla area there was a battalion, the name of which I cannot remember.

There were about one hundred men, including the Company headquarters, in my unit; therefore, each garrison had only about fifteen or sixteen men and the company was not able to put up a defense against them.

In the matter of weapons the guerrillas had such auto-

matic weapons as carbines and Thompson sub-machine-guns. The only automatic weapons that we had were four light machine-guns.

The garrisons more distant from Bacolod, that is, those in the north, were also seriously harrassed by the guerrillas. From the period October, 1943, to June, 1944, the company suffered one hundred casualties. That is the general situation in that area.

Q Were there any Japanese military police stationed in Bacolod?

A Yes, there was.

Q Where were they located in the city of Bacolod in relation to the market place?

A About 150 meters south of the market.

Q Were these military police under the jurisdiction of your company or the Yamaguchi Battalion, or were they a completely separate unit?

A Since they were not under Yamaguchi unit's jurisdiction or my unit's jurisdiction, they are independent.

Q You stated that Lieutenant Nanjo went to Boroboro garrison about February 4th or 5th. Who was in charge of that garrison immediately prior to Lieutenant Nanjo?

A Sergeant Fujimaki.

Q You stated Lieutenant Nanjo returned to Bacolod on or about May 7th or 8th, 1944. Who was then placed in charge of the Boroboro garrison?

A Sergeant Major Suzuki.

Q What mode of military dress -- that is, as to clothes and weapons carried -- did these garrison commanders wear?

A At Boroboro?

Q Yes.

A The regular army uniform.

Q What weapons did they carry?

A If it is a sergeant, he has a rifle; and a sergeant major would have a saber without the rifle. If it is an officer, he would have a saber and binoculars. I would like to make a correction. The sergeant and up also carry binoculars, but of an inferior grade.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is still under oath?

(Interpreter Saito translated to the witness.)

Q You stated that Lieutenant Nanjo arrived in your mountain position either at the end of March or at the beginning of April 1945. Did Lieutenant Nanjo stay in that position or was he allowed or ordered to go elsewhere during that week?

A Nanjo was with me all the time.

Q When the Kempei Tai, that is Japanese Military Police, wanted a Filipino did they request your company to procure him, or did they use means under their own command if that man was within your jurisdiction?

A The Kempei Tai acted on their own free will to apprehend any Filipino they desired.

Q Did they ever place their demands upon you to procure the men they wanted for them?

A Although they don't have the orders to demand they sometimes asked for aid.

Q Do you recognize the name Bartolomu Toriano?

MR. AITKEN: Bartolome Toriano.

A That is a Filipino, is it?

Q Yes.

A It seems that I have heard it, but I am not sure.

Q Do you remember ever receiving a request from the Kempei Tai to arrest this Toriano in or about the Boroboro area?

A By the way, isn't he from Concepcion?

Q Yes.

A Then, I do recall.

Q Will you relate as much as you know of that incident?

A About July of 1944 a man from the Kempei Tai came and stated that there was a guerrilla in the Concepcion area and requested his capture. I called Sergeant Major Suzuki, the commander of the Boroboro garrison, and instructed him to capture this guerrilla. He was captured and I believe that he was brought to company headquarters and since there were no facilities to carry out an investigation there, he was sent to the Kempei Tai.

Q Do you know what happened to this Toriano after he was sent to the Kempei Tai?

A Yes.

Q What occurred?

A He was investigated and established as a guerrilla. He was well aware of the situation and it was thought that he would be a great aid in expeditions. and was sent back to my company headquarters. Immediately with thirty of my subordinates I went to Boroboro because of the certainty of his information. We met Sergeant Major Suzuki at Boroboro and we were led to the place where Toriano was captured. It was said that there was a home of a guerrilla in that area. Early the next morning, before dawn about 3 a.m., we left and went to a place approximately six or seven kilometers east of San Fernando, near the mountains, and since it was said that guerrillas were in the vicinity I had my men deploy. But there were no people, although there were buildings. Therefore, we returned to Boroboro

that day. Then I had some other matters to take care of and left Boroboro the next day. Sergeant Major Suzuki went together with me, together with five or six of his men. Corporal Nakatani was left in charge of Boroboro. Corporal Nakatani asked me what should be done with this prisoner and I instructed him to just hold him there. The next morning about 3 a.m. we went to a place approximately fourteen or fifteen kilometers north. At the time of the landing of the Japanese on Negros Island, coal from the Talisay Central had been taken into the mountains. This was a matter I have referred to previously. Because of the shortage of coal in April and May which was due to the great number of airforce personnel which had come to Negros, coal was needed for the establishment of airfields and other installations. When we went to the place where the coal was it had already been burned and only ashes remained. Although there were a few guerrillas in the vicinity my business had been completed and so we went to a place called -

INTERPRETER NISHIHARA: I don't know this name here at all. Phonetically, it sounded like Dofiesmas -- I am not sure of that.

A (Cont'd) -- and I asked Sergeant Major Suzuki to return together with me to Bacolod. However, that would entail a detour from Dofiesmas to Talisay to Bacolod, and to Boroboro, and since that was too long Sergeant Suzuki said that he would go directly through the mountains. I was very worried because of the small number of men he had, but since he insisted I let him go. The thirty men and myself went to Talisay and then returned to Bacolod. Upon my return I immediately called Boroboro and inquired as to the safety

of Sergeant Suzuki. I received a report he had just returned, and at the same time I also received a report that the guerrilla had been killed in the meantime. According to this report this guerrilla had hit the Japanese guard with a piece of firewood and consequently he was shot to death by the Japanese soldiers and some member of the Philippine Standing Army.

Q At that time where was Lieutenant Nanjo?

A Nanjo accompanied me on this movement.

Q The movement you describe up to Talisay, Silay, and Dofiesmas?

A He was in my company headquarters and he has gone on the movement all along -- that is, excluding Silay, but he was with me from Talisay and down to Dofiesmas.

Q Can you estimate approximately the place you and Lieutenant Nanjo were at the time Toriano was killed?

A I believe I was at a place where the coal was burned. That is, about seven or eight kilometers north of Dos Hermanos.

Q And how far would that be as the crow flies from Concepcion or Boroboro?

A From Boroboro it is about seventeen or eighteen kilometers as the crow flies, and from Concepcion it is about eleven to twelve kilometers.

Q Have you ever heard of the names Teodoro Villas or Juan Villas, which are mentioned in Specification 1, with the nickname of the first man, Villas, being Doroy?

A I cannot recall.

Q On December 21st, 1944, who was in charge of the security of the Bacolod area?

A Hori battalion was in charge of the security of Bacolod.

Q Do you know, by any chance, what company of the Hori battalion?

A No, I cannot recall.

Q At that time you say the Hori battalion was in charge of the security of Bacolod. Did that also include Boroboro and Balogo?

A Is Balogo an area?

Q I believe it is a barrio. It is in the vicinity of Concepcion and Boroboro.

A Yes, that is under Hori unit's jurisdiction.

Q Have you ever heard of the name Faustino Alindog and Ricarido Alindog, as mentioned in Specification 3?

A I cannot recall.

Q On the 18th day of February 1945, who was in charge of the security of Bacolod and surrounding hinterland, as mentioned before? That is, Concepcion and Boroboro vicinity.

MR. WARD: For the record this is Specification 4.

A The Hori unit.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

MR. SCHAUER: Mr. Ward apparently has not come in yet. Do you have any objection if I continue the examination until he returns in order not to waste any time?

MR. AITKEN: None.

BY MR. SCHAUER:

Q On the 18th of February 1945, do you know who was in charge of the garrison at Boroboro? I am referring now to Specification No. 4.

A I do not know of that commander of the Boroboro garrison.

Q Do you know whether or not at the period around the 18th day of February 1945, Lieutenant Nanjo was in the hospital?

MR. AITKEN: That is objected to as leading.

COLONEL STICKNEY: Can you reframe that.

MR. SCHAUER: Yes.

Q On or about the 18th day of February 1945, where was Lieutenant Nanjo?

A In the hospital.

Q And which hospital was he in about that time?

A There were two hospitals in Bacolod, one is for the civilians and one is for the army. He was in the army hospital.

Q Have you heard the names Dionisio Antera and Francisco Villasor?

A I cannot recall.

Q Do you recall the name Tiburcio Jonota?

A No, I cannot recall it.

Q Do you recall the name Gil Tanique?

A Even that I do not know.

Q Do you recall the name Benito Mirivelles?

A I do not know that either.

Q Do you recall the name Roman Dizon?

A No.

Q Do you recall the name, referring now to Specification No. 6, Dionisio Letosa?

A I do not know.

MR. SCHAUER: I believe that is all the questions.

(Mr. Ward entered the courtroom.)

COLONEL STICKNEY: Any cross-examination?

CROSS-EXAMINATION

BY MR. AITKEN:

Q When did you arrive first in Negros?

A The 6th of January 1943.

Q Your station then was in Bacolod?

A Yes.

Q Until what date?

A Do you mean my units or I?

Q Your units.

A I was at Bacolod from 6 January 1943 up to October of the same year, and there was a garrison unit at Bago, Boroboro, and Murcia.

Q From January 6, 1943 to October 1943 what were your duties?

A I was in charge of the garrison unit at Bacolod and its detachment at the outskirts.

Q Including Boroboro?

A Yes.

Q After October 1943 where were you stationed?

A I was at Bacolod.

Q When did you go to Victorias with your unit?

A I believe it was the latter part of August 1944.

Q Can you remember the date, the exact date?

A I believe it was about the 27th or 28th of August.

Q Well, are you sure that it was on one of those two dates, or might it have been a few days before the 27th or a few days after the 28th?

A The exact date I cannot recall.

Q Well, I asked you, might it have been a few days before the 27th or a few days after the 28th?

A I can say for sure from the 25th to 31st of August.

MR. AITKEN: I can't say?

INTERPRETER SAITO: I can say for sure.

Q At this time where were Lieutenant General Kono's headquarters, were they in Negros or in the City of Cebu?

A At Negros Island.

Q In the City of Bacolod?

A Yes.

Q Now, when did you leave Victorias?

A I left Victorias around the 5th day of December 1944.

Q You are certain of the 5th of December, or was it about the 5th of December?

A That is for a certainty. We received a bombing attack on that day.

Q Was that which fixes it in your memory?

A That is right.

Q Do you remember what the day of the week was?

A That I cannot say.

Q Do you think it might have been a Sunday?

A I cannot recall.

Q Have you any idea whether it was the beginning or the end of a week?

A No, I cannot recall. I recall the date clearly because on that date we received a severe attack by consolidated, about fifty consolidated bombers.

Q And while the day of the month is clear in your mind, the day of the week is not at all clear, is that true?

A Yes.

Q Now, was Lieutenant Nanjo with you while you were in Victorias?

A Yes.

Q And his duties at the time were what you call educational duties?

A That is correct.

Q What do you mean by educational duties, do you mean the training, the general training of troops, or do you mean something academic?

A It is a military training.

Q By that you mean the use of musketry and the general combat fighting and matters of that kind?

A This training was to combat the landing of the United States Forces. Particular stress was placed upon anti-tank warfare, bayonets, and the use of weapons. These

were on orders from the battalion.

Q In the early part of the year, 1944, you were at Bacolod, were you not, with your unit?

A Yes, that is correct.

Q And Lieutenant Nanjo was with you then and performing the same duties?

A Yes, and he was in charge of the education.

Q Did the education at that time also consist mainly in preparations against tank landings and sea landing?

A No, it was not so.

Q It consisted of a little different kind of training, such as jungle warfare, did it not?

A No, it was not so.

Q What did it consist of?

A At that time recruits arrived and he was in charge of the basic training of the recruits.

Q In Victorias what was the nature of the training that he was teaching?

MR. SCHAUER: I will object to that as having been asked and answered.

MR. AITKEN: He said educational training.

MR. SCHAUER: I believe you asked what type and he told you combating American troops.

COLONEL STICKNEY: Objection sustained.
Q In Victorias was there any training for opposition to sea landings?

A No.

Q Did that have to do with the training of just recruits?

A No, at that time it was the regular training for the whole unit.

Q When you left Victorias to go to Bago, how did you proceed? Did you march or did you proceed by transportation?

A By means of truck.

Q How many men did you transfer from Victorias to Bago at that time?

A It was over a hundred men.

Q Was the movement completed in the one day?

A Yes.

Q And on what day did you arrive in Bago?

A ✓ On the 5th.

Q What month?

A Of December.

Q And what day of the week was that?

A I cannot recall.

Q What fixes the 5th of the month in your memory?

A As I stated before, the bombers attacked the airfield; consequently, I remembered it.

Q ✓ When was it that Lieutenant Nanjo was injured?

A On the 6th.

Q That date is also fixed in your memory?

A Yes.

Q What fixes that in your memory, was that because of an air raid?

A It is because it was the next day after our arrival when we started training again.

Q But you haven't the slightest idea whether that was the beginning or the end of the week, have you?

A No, I do not know.

Q You understand that what I mean by week -- that is, I mean the period of seven days, beginning with Sunday and ending Saturday?

A I understand that point, but I have no recollection.

✓ It is customary for the Japanese troops or Japanese Army personnel to remember the dates instead of the day of the week.

Q How long did you stay in Bago?

A I withdrew from Bago on or about the 24th or 25th.

Q When you say on or about the 24th or 25th, that could be a day or two prior to the 24th and a day or two subsequent to the 25th?

A It is either one of those dates, the 24th or the 25th.

Q Have you any idea which day of the week either of those dates fell on?

A No.

Q From Bago, then, you transferred your unit to Granada, is that correct?

A Yes.

Q And how long did you stay there?

A Several days after our arrival two platoons were dispatched to Murcia. The main strength of the company remained in Granada until the 29th of March 1945. Its duty was the construction of positions to be used against the Americans.

Q Where did you say the two platoons were transferred to?

A Murcia.

Q On what day did they leave Granada for Murcia?

A I was ill at that time and in a hospital. I heard that they left at about the first day of January 1945.

Q What hospital were you in?

A I was in the dispensary at battalion headquarters -- that is, of the Yamaguchi unit.

Q Where was that unit at that time? Where were the headquarters of that unit at that time?

A It was at the Bacolod-Murcia Sugar Central.

Q What day did you enter that hospital?

A I believe it was about the 27th of December.

Q You say you believe it was about the 27th of December. Are you certain of that date? Might it have been a few days later or a few days earlier?

A I believe that it was about the 27th. Perhaps a day earlier or after.

Q How long did you stay there?

A I believe until the 7th of January.

Q Now, again, your memory might be that it was a day or two earlier than the 7th of January or a day or two after?

A I believe that it was either the 7th or 8th of January.

Q From the time you went up to Victorias first until the last date just mentioned, how many air raids were there in the area?

A There were several tens.

INTERPRETER NISHIHARA: He gave a very indefinite number.

Q Several tens of air raids? Please approximate, if you can, numerically, about how many? I don't want a certain amount, but how many about?

A About twenty or thirty.

Q And when was the first one, do you remember?

A The 22d of October.

Q In 1944?

A Yes.

Q Where were you at that time?

A In Victorias.

Q Was Victorias raided then?

A No.

Q Can you give us the dates of any more of those air raids succeeding the 22d of October?

A There was one a day later on the 23rd, and I do not remember the dates of the subsequent raids.

COLONEL STICKNEY: The Commission will adjourn
and will reconvene at 1300 hours.

(The Commission adjourned at 1120 hours, to reconvene
at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defence counsel Schauer, the defendant and his personal interpreter, the assigned interpreters of Japanese, and the reporter are all present in court. Will you remind the witness that he is proceeding under oath?

(Interpreter Saito translated to the witness.)

TANSAI U. YAMAHASHI

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Saito:

CROSS-EXAMINATION (Cont'd)

BY MR. AITKEN:

Q Now, although there were twenty or thirty air raids between the time that you went to Victorias with your unit and you returned, the only ones of which you have a positive knowledge of the date, was one on about the 22d of October, 1944, and one a day later, and one on or about the 5th of December, is that true?

A Yes.

Q When you left Bago, am I correct in saying that I understood that you then were required to split your battalion, sending one or two platoons to Murcia and one to another place?

COLONEL STICKNEY: That should read "split your company."

MR. AITKEN: Split your company, yes, I accept that correction.

MR. SCHAUER: I believe it was in Granada, isn't that right?

MR. AITKEN: It could have been, I haven't the note.

MR. SCHAUER: I did not want to make an objection, but I thought I would suggest a correction, I think he testified it was Granada.

Q And there was one or two to Granada, and one or two to

another place, is that correct? There were two to one place, and one went to another, I am trying to straighten it out.

A I said that one platoon went to Granada, and two to Murcia.

Q And where were your headquarters?

A The company headquarters was at Murcia.

Q Now, on what date did the two platoons go to Granada?

No, I beg your pardon, on what date did the one platoon go to Granada?

A It was on the 26th of December.

Q Exactly on the 26th of December, or about the 26th of December?

A I believe that there is no error.

Q And on what date did the two platoons go to Murcia?

A The first of January, 1945, that is what I have heard.

Q You don't know personally?

A I received such a report from my subordinates.

Q Where were you at the time?

A I was in the dispensary of the battalion headquarters at the Bacolod-Murcia Sugar Central.

Q When did you leave the dispensary?

A It was either the 6th or 7th of January.

Q And which portion of your command did you join, the one at Granada or the one at Murcia, if either.

A I went to Murcia.

Q Now, how long did you stay there?

A Are you referring to myself or to the unit?

Q You.

A Approximately one month.

Q Where did you go after that one month?

A Together with the main strength of my unit, that is the two platoons at Murcia, we went to the mountains to construct positions.

Q Now, you say you stayed in Murcia with a part of your unit approximately a month, do you know what date you left Murcia?

A Are you referring to the time that we left Murcia and went to the mountains?

Q Yes.

A About the 10th of February.

Q Could that be several days before or a few days after the 10th?

A It was the 17th of February.

Q What fixes that date in your mind?

A The Empire Day, that is, the anniversary of the ascension to the throne of the Emperor Jimmu was February 11th, and I remember that we left approximately a week after that.

Q And how many men did you leave at Granada?

A About five or six men.

Q In whose charge?

A Corporal Hongo.

Q Now, between the 5th of December, 1944, and the time when you left for the mountains, were there any air raids?

A Yes, there were.

Q Can you give us the dates of some of them?

A I do not remember the dates.

Q Now, you stated in your direct examination that while you were in charge of the area for security in the vicinity

of Bacolod, Granada, Concepcion, Boroboro, that there was considerable guerrilla activity, is that correct?

A Yes, it is.

Q - And as commander in charge of that security, it was necessary for you, was it not, to send out numerous patrols?

A No, I did not.

Q Were your various garrison commanders instructed to send out patrols?

A No, they did not.

Q What instructions were given your men in garrisons with reference to protecting themselves against guerrilla activities?

A The only orders I gave my garrison commanders was to enforce the guarding of their respective garrisons. I could not desire anything above this because of the small strength of my unit.

Q Didn't you go out on some patrols yourself?

A Yes, I personally went on some expeditions.

Q Did you go on any expeditions in the vicinity of Boroboro?

A Yes.

Q Did you ever send out a few expeditions in charge of others when you didn't accompany the expedition?

A There were no occasions.

Q I think you stated on direct examination that, in recounting the guerrilla activities, your unit lost approximately 100 men as a result of the guerrilla activities, is that correct?

A Yes.

Q In what vicinity were most of these men lost?

A In Murcia, Boroboro, San Ramon, and Victorias.

Q And over what period of time were these men lost?

A From the period between October 1943 until June of 1944.

Q I believe you also said that Murcia and Boroboro garrisons had the most difficulty, is that correct?

A Yes.

Q Wasn't it necessary for these garrisons to send out patrolling parties as a matter of defense during that period?

A We did not have the numerical strength to send out any such things.

Q And so you would say that during that period of time, as far as Boroboro was concerned, not a single patrol was sent out?

A There were none other than those I ordered.

Q How many did you order?

A Just once.

Q When was that?

A It was in the early part of July 1944.

Q Where was that?

A In the vicinity around Concepcion.

Q Did you go on the raid yourself?

A I ordered Sergeant-Major Suzuki to carry it out.

Q Did you send him men from Bacolod to reinforce his own strength?

A No.

Q How many men did he take on that expedition?

A I ordered that he should take five or six men to capture this guerrilla and that this should be done at night.

Q Do you remember the date?

A No, I do not.

Q You heard frequently, did you not, that there were infiltrations of guerrillas into your area?

A All the surrounding areas were full of guerrillas.

Q Did you make a raid yourself during the month of March 1944?

A To what area are you referring?

Q Did you make any raid in the month of March 1944?

A I do not remember very clearly. However, I believe that there was.

Q What part of the month do you remember: the beginning or the end?

A I have no such specific recollection.

Q Did you raid the hacienda called Colasap?

A Where is that? I cannot tell where that is.

Q Do you know where the Hawaiian --- I think it is called the Hawaiian Sugar Central --- Hawaiian-Murcia Sugar Central --- is?

A Yes, I went on the orders of the battalion.

Q On the orders of Colonel Yamaguchi?

A Yes.

Q Do you remember the date?

A I have forgotten for the moment.

Q That was a very important raid at the time, was it not?

A Yes.

Q Do you remember how many men you had on that raid?

A Yes.

Q How many? About a hundred?

A Approximately thirty men.

Q Was it March 7, 1944?

A I believe it was the 7th.

Q You mentioned an investigation of a so-called guerrilla named Bartolome Toriano. What was the nature of this investigation that you made?

A I replied to a question previously that the Kempei Tai had desired to hold an investigation and had requested me to get this man.

Q And how did you proceed to get him?

A You are referring to Toriano?

Q Yes.

A I ordered Sergeant-Major Suzuki to capture him.

I instructed him that there was great guerrilla activity in the daytime, so to capture him at night, while he was asleep.

Q And what was that date, do you remember?

A I do not remember.

Q Was the man delivered to you in Bacolod?

A Yes.

Q Who brought him in, do you remember?

A I believe it was the constabulary.

Q Are you sure it was not anybody from Boroboro belonging to your unit?

A Yes, it was the constabulary.

Q Now, I think you said there was some investigation after he was brought in. Do you know of that investigation personally?

A There was no investigation held at the company headquarters.

Q Was there any investigation that you know of held?

A They were sent immediately to the Kempei Tai.

Q Do you know what the nature of the investigation was at the Kempei Tai?

A I do not know the details. However, I remember some of the important points of it.

Q Was there a regular trial?

A What do you mean -- trial?

Q Was he tried for any crime?

A I do not know what methods of investigation were carried out at the Kempei Tai and I do not know whether there were any trials, or things of that nature.

Q All you know is that they said he was a guerrilla and turned him back to you for use, is that true?

A Toriano was sent over and together with him some documents. This document established Toriano as a guerrilla and also the fact that there were other guerrillas and it also said that if we followed this man we would be able to capture some other guerrillas.

Q So the Kempei Tai then delivered him over to you, so that you could send an expedition to follow him and make a capture, is that true?

A That was written on the results of the investigation by the Kempei Tai.

Q And the results of the investigation made by the Kempei Tai as written were handed to you to act accordingly?

A Yes.

Q So you sent him then back to Boroboro, or was it to Concepcion?

A I went with Toriano to an expedition and I accompanied Toriano to Boroboro.

Q How many men did you have on that expedition?

A About thirty men.

Q Did he lead you to the place you expected him to lead you to? Did Toriano guide you to the place you expected him to guide you to?

A Yes.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Kindly remind the witness that he is proceeding under the same oath.

(Interpreter Saito translated to the witness.)

Q Now, during some part of this expedition, this so-called guerrilla Toriano was killed, that is true is it not?

A No.

Q What happened to him, if anything?

A As I have testified under direct examination, we went to the place following Toriano and since there was nothing there we returned that day. And I instructed the men there to hold him until I sent word otherwise. On the following morning we went to investigate the matter of this coal. During my absence at that time the following occurred: the guard was sleeping or something, and Toriano struck him with a piece of firewood which was lying nearby and attempted to escape. Therefore, he was shot to death by a Japanese soldier and some members of the constabulary.

Q That was the report that was made to you, is that true?

✓ A Yes.

Q Now, how many men did you take when you left him there and you proceeded to this coal deposit?

A My thirty men and five or six under Sergeant-Major Suzuki from Boroboro.

Q The five or six men of Sergeant-Major Suzuki

that you took with you, you utilized as guides, did you not, because they were probably familiar with the country?

A They did not accompany us as guides but they came with us because of the small number of men under me.

Q Now, this expedition to the coal area was a different and entirely independent one from the one just before where you were looking for Toriano to guide you to some place, is that true?

A Yes, they are separate.

Q Now, after you returned from that, did you return to your headquarters?

A Yes.

Q Where did you say your headquarters were then?

A At the Bacolod-Murcia Sugar Central.

Q And you haven't the slightest idea of the date of those two expeditions, have you?

✓ A I remember that it was the early part of July. However, I cannot remember the exact date.

Q When you left Bacolod on that expedition, did you take your entire force?

✓ A We left five or six Japanese soldiers and some members of the Philippine standing army.

Q Left them at the headquarters?

A Yes.

Q With the exception of those, your entire force was with you on that expedition, is that true?

A Yes.

Q You have related remembering three expeditions since early in March 1944 to this one. Are those all that you can remember?

A Those are the only three that I remember as to the date. I remember other expeditions as to their localities but I cannot remember the dates.

Q How many can you remember as to localities?

A I remember about five or six.

Q In what period of time?

A This would include the period between the date of our landing, the 6th of January, 1943, until about the 7th of August, 1944.

INTERPRETER NISHIHARA: My error, not the 7th of August, but the "latter part of August, 1944."

Q And how many did you say that you can remember?

A Five or six as to their localities.

Q But you have no idea now as to the dates?

A I cannot remember the date and the month.

MR. AITKEN: That is all.

COLONEL STICKNEY: Any redirect?

REDIRECT EXAMINATION

BY MR. SCHAUER:

Q Do you know whether or not Lieutenant Nanjo was in charge of the Boroboro garrison during the month of January 1944?

A Yes, I do know, he was not the garrison commander.

Q Where was he stationed during the month of January 1944?

A He was at the Bacolod-Murcia Sugar Central.

Q At the time when you went from Victorias to Bago, that is as you have testified, on December 5, 1944, did Lieutenant Nanjo accompany you?

A Of course.

Q During the year 1944, and referring to the city of Bacolod in Occidental Negros, were there other Japanese soldiers stationed there besides either your unit or other members of the Yamaguchi forces?

A Yes, there were.

Q Will you describe the nature of those units and indicate to the best of your recollection how many men comprised each of the various units there?

A In the middle of the city, the Ochiai Naval Unit comprising approximately 150 men, at the Bacolod-Murcia Sugar Central, the Akiya Air Field Establishment Unit approximately 500 men, the Hori unit with its battalion headquarters and several companies, approximately 300 men; the Kono Brigade headquarters, approximately 200 men; and a unit at the Bacolod airfield from forty to fifty men; the headquarters of Tsubasa Unit, approximately 200 men; also a naval supplies unit, fifty to sixty men.

Q Were any of those units in Bacolod during the early part of 1945? That is, up until the time the Americans landed on Negros, which you testified was the 29th of March, 1945?

A The Ochiai Naval Unit, the Airfield Establishment Unit, the Hori Unit with its battalion headquarters and several companies, the Bacolod Airfield Unit, the headquarters of the Kono Brigade, as well as the Naval Supplies Unit.

INTERPRETER NISHIHARA: May I make a correction at this time? I mentioned Akiya Airfield Establishment Unit. Akiya is not a proper name. The witness said that this airfield establishment unit was quartered in an empty building at the Bacolod-Murcia Sugar Central. I misinterpreted that to be a proper name. That should read "Airfield Establishment Unit at an open building at the Bacolod-Murcia Sugar Central."

COLONEL STICKNEY: Strength five hundred?

INTERPRETER NISHIHARA: Strength five hundred -- that is right.

Q These units that you have designated, both as to those that were present in 1944 and those that were present there in the early part of 1945, were units other than those under your command, is that correct?

A They were not under my command.

(At this point the witness spoke to the interpreter.)

INTERPRETER NISHIHARA: Shall I explain what occurred between the witness and myself just now? The witness was talking to me.

COLONEL STICKNEY: Well, you are to be the judge of that, what the Commission should hear in answering the

question or any change that has to be made.

INTERPRETER NISHIHARA: This wasn't in regard to any particular question.

COLONEL STICKNEY: We don't want to hear every word he says.

INTERPRETER NISHIHARA: This wasn't in regard to any particular question, sir. The witness desired that I ask defense counsel for approximately five minutes at the end of his testimony here, so that he could say something. That is just what he asked me.

MR. SCHAUER: Do you have any objection to that, counsel? Personally, I have no objection.

MR. AITKEN: It is a matter within the discretion of the Commission.

MR. WARD: I imagine it will be material to the case at hand. If it is something relating to the trial, I would just as soon have him speak. It might be of some probative value to the Commission.

MR. SCHAUER: May I ask him this question: Does the statement he wishes to make have reference to the testimony he has been giving?

(Interpreter Nishihara translated to the witness.)

MR. AITKEN: I will say that this man is just an ordinary witness here, and voluntary statements we know nothing about I don't think are in order unless they are elicited by questions of some sort.

MR. SCHAUER: I agree with counsel on that. The only question in my mind is the statement he may want to make may be to clarify some of his testimony. I agree with

counsel that if it is just a voluntary statement or a declaration his position is no different than that of any other witness.

COLONEL STICKNEY: Did you get an answer to the question?

INTERPRETER NISHIHARA: I never gave the answer to that question. Shall I give it now?

COLONEL STICKNEY: Yes.

INTERPRETER NISHIHARA: "There are some points within it referring to parts of my testimony, and there are others I wish to volunteer as to the character, etc. of the accused, Nanjo."

MR. SCHAUER: I first had better finish with my own examination, before we go into this.

Q During the month of January, 1944, did Lieutenant Nanjo go to Boroboro?

A No, he did not.

Q Do you know whether or not during the month of January, 1944, he went to Balogo or to Concepcion?

A No, he did not.

MR. SCHAUER: I believe those are all the questions that I have on redirect examination.

COLONEL STICKNEY: You might bring out what he wants by asking him questions.

Q A moment ago, when you said that you wanted to make some statement, will you tell us at this time what that statement is about?

MR. AITKEN: Just a moment. I object to a voluntary

statement from the witness going in evidence, unless it is elicited by question and answer. It might be proper and it might be improper, what he is going to say, and we have no opportunity to object to it, and I don't know if he has any different status here as a witness than anybody else. Certainly, other witnesses are not allowed to get up and make speeches in favor or against the accused.

MR. SCHAUER: The witness indicated that there were two things that he wanted to bring out. One related to the testimony he has given. Would counsel stipulate that the portion of the statement by the witness relating to his previous testimony may be made, subject, however, to a motion to strike, if that motion is proper?

MR. AITKEN: That is O. K.

MR. SCHAUER: And we are agreeable to limiting his statement merely to explain on those matters with reference to his testimony, rather than the second portion of the statement, which apparently concerns the character of the defendant.

COLONEL STICKNEY: You can bring that out by another question.

MR. SCHAUER: Yes, sir.

Q You stated a moment ago that you wished to make a statement, and that that statement referred to both your testimony here and also related to the character of the accused, Lieutenant Nanjo. Now, will you kindly make that statement, but limit it only to those matters about which you have testified and **do not include** anything about the defendant's character.

(At this point the witness talked at great length to the interpreter.)

COLONEL STICKNEY: Has he finished?

INTERPRETER NISHIHARA: Yes, sir.

COLONEL STICKNEY: Now, he asked to talk five minutes on two subjects. He was told to talk on one. He has talked ten minutes. The Commission will adjourn and will reconvene at 0830 on the 26th of October.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 26 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs

MASAO NANJO

)
)
)
)

PUBLIC TRIAL

VOLUME XVIII

PAGES 1042 TO 1077 INCL.

MANILA, P.I.

DATE: 26 October 1946

COPY NO: /

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)
) vs PUBLIC TRIAL
)
MASAO NANJO)

Court No. 2
High Commissioner's Residence
Manila, P.I.
26 October 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY; INF, President and Law
Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. MAKUZO NITTA)
T/3 TAKEO SAITO) Japanese
2d LT. TAICHI NISHIHARA)
2d LT. JAMES NAKAMURA)

PILOMENA ZOSA)
PEDRO GENOVES) Ilongo (Visayan)
MACARIO E. BELONG)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
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P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 26 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel Ward, the defendant and his personal interpreter, the assigned interpreter in Japanese, Lieutenant Nishihara, and the reporter are all present in court.

COLONEL STICKNEY: I believe we have a statement by the witness to be translated into English now.

INTERPRETER NISHIHARA: Yes.

MR. AITKEN: At this time will you remind the witness that he is still under the same oath?

(Interpreter Nishihara translated to the witness.)

TANSAKU TAKAHASHI

a witness for the defense, having been previously duly sworn, testified further as follows through Interpreter Nishihara:

REDIRECT EXAMINATION (Cont'd.)

BY MR. WARD:

A During the past two days I have been a defense witness in the Nanjo case. I have only stated the truth and I would not be ashamed to go before my God with them. I was not familiar with the Charges against Nanjo. However, I was asked such questions as when was he in the hospital, at headquarters, in the mountains, etc., and as a result I have gained a general idea of them. I am sure that 2d Lieutenant Nanjo was wounded and hospitalized on 6 December 1945. He went

to the mountains in the latter part of March 1945, and I met him on 2 April. Concerning the Boroboro incident, I could state the following as facts. 1st Lieutenant Katsura was the commander of the Boroboro garrison.

MR. AITKEN: One moment, please, before we go into a long dissertation of this kind, I am going to object to it at this time as improper procedure. Here the witness has already testified on question and answer and if he has anything to change it would be perfectly all right to make a statement, but if he is simply going to repeat what he has already stated in question and answer, it is a most unusual sort of procedure, and I don't think it is admissible. It gives us no chance in advance to object to anything that might be improper that comes out. It is just a waste of time as far as I can see.

MR. WARD: It may be a waste of time as far as counsel for the prosecution can see, but, however, the question asked by Mr. Schauer was "Have you anything to augment your testimony or change it in part that which would" -

COLONEL STICKNEY: I would like to interrupt. First of all, do you think you are correctly stating what Mr. Schauer said?

MR. WARD: I believe I was here at the end of the last hour and he eliminated anything as to the character of the defendant. But certainly changes or augmentations that he wishes to make as to the testimony he has given that was brought forth.

COLONEL STICKNEY: I don't recall there was anything said about augmentation.

MR. WARD: All right. At this time if it will satisfy the prosecution, I will ask such a question. Certainly it is pertinent and certainly it is competent, both on the

thought of being merely for probative value and it is right to the point.

COLONEL STICKNEY: It strikes me that so far as it seems to be a waste of time, and the arguments back and forth may be also a waste of time, that probably the least waste of time would be to go ahead and listen to what he has to say.

MR. WARD: Thank you, sir.

INTERPRETER NISHIHARA: Shall I proceed, sir.

COLONEL STICKNEY: Yes.

A (Continued) I can state the following as facts. 1st Lieutenant Katsura was the commander of the Boroboro garrison from January --

COLONEL STICKNEY: I would like to get the spelling of that name.

INTERPRETER NISHIHARA: K-a-t-s-u-r-a, 1st Lieutenant.

A (Continued) From January to June of 1943. Sergeant Major Yanai was the commander from June until October.

Sergeant Major Fujimaki from October until February 1944.

2d Lieutenant Nanjo from February until May 1944.

Sergeant Major Suzuki from May until about the end of August 1944.

Concerning the killing of the guerrilla Toriano, he was killed while Sergeant Major Suzuki was in command of the Boroboro garrison. I personally received this report from Sergeant Major Suzuki. I may be asked why I know so much -- I can say that I was in charge of the training at Saigon, French Indo China, and Nanjo at that time was a recruit and I was in charge of him. At that time he received a pass or examination for officer candidate and I began to instruct him prior to his departure for Japan. In June 1943, he returned from Japan

and came to my station. Because of the circumstances and my interest in him, I was always watching over his activities. I have not distorted the facts just because he was a platoon leader under my command. I did not make these statements in self-abandonment over the fact I have already been sentenced. I have stated facts not because I am a soldier or as a person charged with a guilt, but as a man. I am not a Christian; however, I believe in the existence of a God.

MR. AITKEN: No further questions.

MR. WARD: Nothing further.

EXAMINATION BY THE COMMISSION
BY COLONEL STICKNEY:

Q In the statement just made, I understood you to say that Nanjo was a platoon leader?

A Yes.

Q What platoon did he have?

A After landing on Negros and after June when Nanjo came, my command was broken up into garrisons, and platoons in themselves were also broken up. The title platoon commander or platoon leader still remained, but they were not designated as First Platoon and Second Platoon, etc.

Q How could you distinguish between the Nishikawa platoon and Nanjo's platoon?

A According to the necessity the company commander would order the organization of a platoon by ordering Nishikawa or Nanjo, whichever the case may be.

Q Did Nanjo take his platoon from Bacolod to Boroboro?

A It was not his platoon. I ordered some men to go with him.

Q Did he have the same men at Boroboro that his predecessor had and that his successor had?

and came to my station. Because of the circumstances and my interest in him, I was always watching over his activities. I have not distorted the facts just because he was a platoon leader under my command. I did not make these statements in self-abandonment over the fact I have already been sentenced. I have stated facts not because I am a soldier or as a person charged with a guilt, but as a man. I am not a Christian; however, I believe in the existence of a God.

MR. AITKEN: No further questions.

MR. WARD: Nothing further.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q In the statement just made, I understood you to say that Nanjo was a platoon leader?

A Yes.

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Q Did Nanjo take his platoon from Bacolod to Boroboro?

A It was not his platoon. I ordered some men to go with him.

Q Did he have the same men at Boroboro that his predecessor had and that his successor had?

A There were some others. However, we alternated men who had stayed in those distant garrisons.

Q ✓ What was your illness in December 1944?

A I had stomach disorders.

Q When did it incapacitate you?

A ✓ About the 20th of December 1944.

Q Now, how close is your memory on dates that you have been giving in the course of your testimony?

MR. WARD: Objection to that, if the Commission will state as to any specific dates. This man has given many, many dates, some he says are more definite, some he says are less definite. If the Commission please, they can ask him how close is your recollection to a certain date.

COLONEL STICKNEY: I will withdraw that.

Q How close is your recollection to the date that you became incapacitated, between how many days would that vary?

A ✓ I don't think it is more than a day or two difference.

Q It could have been the 18th or the 22d of December, then, is that right?

A ✓ My illness was chronic and I could not state the date positively.

Q It could have been the 18th or the 22d of December, is that correct?

A I can say that it was either the 19th or the 20th.

Q And it would not vary one or two days either way?

MR. WARD: Objected to as argumentative.

COLONEL STICKNEY: He has stated that it might vary one or two days either way, he has just made that statement that is contrary, and I am trying to find out which is correct.

MR. WARD: Yes, I agree. Therefore, your question again would be argumentative. You have stated this is a fact. He said, "I am not definite that it could be off about one day" and you stated --

Q You made a statement that you could be off one or two days either way. You have also made a statement that it was either on the 19th or the 20th, which is correct?

A The 19th or 20th because at the most there cannot be more than a day's difference in dates.

Q How can you remember this particular date so well after a lapse of almost two years?

A I have had this illness for the past five or six years and that is why I know.

Q In general, how much of a variation in dates on an average have you admitted for the many dates that you have given before this Commission?

MR. WARD: Objection at this time. If the Commission wishes to make it a certain date, they certainly may cross-examine as to that, which, by the way, is certainly cross-examination. Secondly, any statement as to general dates as my previous objection still stands, further is far too general a question to ask because he has mentioned not one but perhaps twenty or twenty-five dates, and to ask him for a general date at this time covering two days' testimony as to dates he remembers, some of which he remembers and he testified to those before more generally, is a completely unfair question, one that any judge back stateside would certainly completely eliminate from any cross-examination. At this time the Commission has seen fit to withdraw the previous question, and I move that this one be stricken as well.

COLONEL STICKNEY: I don't understand counsel's talk about cross-examination on the part of the Commission.

MR. WARD: This instance is purely cross-examination, nothing else. You are asking completely discriminatory questions. In this instance you are trying to tear down this witness' statement as to his testimony. In doing so you say, "How closely can you testify." He stated one or two days, this way or that way, then you asked him again to be more specific and he says it was the 20th or the 22d. After that you ask him a final question, "Did you not testify that it was one or two days' difference, which is correct." If that is not cross-examination, I have never seen it.

COLONEL STICKNEY: Well, it appears in the record as questions by the Commission.

MR. WARD: Granted, sir, but in this instance I am stating it is cross-examination, and that is what it amounts to.

COLONEL STICKNEY: And what is the significance of cross-examination?

MR. WARD: It is completely different from direct examination to which you are entitled. What you are trying to do is break down in some way the variations of this witness, and you are entitled to ask very leading questions and as soon as I start being more specific with my witness on direct examination, counsel for the prosecution bounces up and shouts, "He is cross-examining," etc. Therefore, I think that would be a very good definition.

COLONEL STICKNEY: This witness is not the Commission's witness.

MR. WARD: I grant it, sir. I am not saying you are not entitled to cross-examine. I am saying you are cross-examining.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

A Those dates I have mentioned as being specific I am positive of. However, on those dates I said "around" I believe that there is no more than a day's difference before and after.

Q How does it happen that after so many months and years have passed you can remember dates so well?

MR. WARD: Objection again, as argumentative as to the last question.

COLONEL STICKNEY: The objection is not sustained.

A That is according to my memory.

Q Did you ever hear of Marcos de Tomas?

A I have no memory of such a name.

Q Did you ever hear of the killing of some five Filipinos, more or less, near a church toward the southern end of Bacolod City in early December 1944?

A I do not know.

Q Did you ever hear of Felix Amador?

A No.

Q Felicito Alba?

A No.

Q Pablo Palomo?

A No.

Q Do you remember an execution in Bacolod City in early December which was attended by a considerable number of troops ---

MR. WARD: Objection. Just asked and answered.

COLONEL STICKNEY: This question is just beginning. I have not finished it yet.

MR. WARD: Excuse me, sir. I withdraw the objection.

COLONEL STICKNEY: Will you please read the question, as far as I have gone.

(Reporter read the question.)

Q (Continued) --- at which some four or five Filipinos were executed at the edge of a pit and later buried in the pit.

MR. WARD: Objection. Just asked and answered. He just stated a minute ago that he heard of no execution on or about the 1st of December.

COLONEL STICKNEY: This question has not been answered. It has just been asked.

Your objection is not sustained.

A I have never heard of that execution.

Q Could it be said that Nanjo was a protege of yours?

A I did not say he was a protege. I said that I had been his instructor at one time.

Q Your dates for Nanjo having been at Boroboro from February to May 1944 differ from the dates as given by

other defense witnesses. You are positive that he was not at Boroboro before February or after May of 1944?

X A Yes.

Q Having Nanjo present in your immediate vicinity so much of the time, did you used to trust him with special missions?

A No.

MR. AITKEN: What was the answer?

INTERPRETER NISHIHARA: "No."

MR. AITKEN: I thought he said "Hai."

INTERPRETER NISHIHARA: He said "no" in English.

BY COLONEL MacKINTOSH:

Q Is there any material difference between the uniform of an officer and that of a soldier in the Japanese army?

A They are the same.

Q Could any person at a distance of 100 meters tell the difference between an officer and a soldier?

A No, they cannot.

Q I believe you stated that a sergeant-major and an officer was armed with a saber, while the soldiers were not. Was that condition prevalent when on patrol as well as when in garrison?

A No, that is not true on all occasions. At times soldiers are ordered to carry sabers and at other times officers might be ordered to carry rifles.

Q Is the foot-gear of the soldier and that of the officer the same or different?

A It is the same.

Q Was Lieutenant Nanjo sent to Boroboro or the vicinity on training missions at any time between May and December of 1944?

A No, he did not go.

Q Were any orders issued by you or by higher headquarters as to the disposition of Filipino prisoners that Nanjo might have taken?

A Those were orders from higher headquarters.

Q What were those orders?

A At the time we landed in January 1943, there were no orders to the effect that Filipino guerrillas must not be killed from Colonel Yamaguchi. Each garrison of these various companies do as they wished. This was an unofficial order. Once I asked as to what should be done about prisoners and I was told to bring the important ones to Bacolod. About October of 1943 there was an order from the Yamaguchi unit headquarters to the effect that we could dispose of the prisoners as we saw fit. This order was given us at a meeting of NCO and officer garrison commanders and company commanders. Company commanders met once a week with the unit commander at unit headquarters, and the garrison commanders, that is, both NCO and officer garrison commanders, met once a month with the unit commander. At that time I also heard that these orders as to the disposition of the prisoners had come from headquarters higher than battalion headquarters.

COLONEL STICKNEY: Will the reporter read that answer, please.

(The reporter read the answer.)

Q Did you issue any specific orders to your garrison commanders as to the disposition of prisoners?

A I have never done it myself.

Q In these orders that you just mentioned, was any differentiation made between civilians, persons suspected to be members of the guerrillas or USAFFE, or known members of the guerrillas or USAFFE?

A It specifically stated that civilians must not be killed, but treated kindly. Suspected guerrillas were to be brought to battalion headquarters for investigation and officers and non-commissioned officers of the guerrillas who might possibly have some information should also be brought to battalion headquarters.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Nishihara translated to the witness.)

Q Did the orders specify the disposition of known guerrillas or USAFFE other than the officers and those believed to have useful information?

A As I have said before the orders said to dispose of them as the garrison saw fit.

Q What was the usual disposition made of these prisoners?

A I heard that they usually released the guerrillas or they sentenced them to death by musketry.

Q In the case of the death sentence was there a trial with the suspect present?

A There was no trial or court-martial.

Q In the case of Bartolome Toriano did the report of his death to you specify shooting, or could the manner of death have been by other means?

A I received a report that he had hit a guard and had started to escape. Therefore, he was sentenced to death by musketry. I had always thought before that, that he was to be released.

Q Do you remember the date that Lieutenant Nanjo was released from the hospital at Bacolod?

A I heard from Lieutenant Nanjo and others that he was released from the hospital on March 29th, 1945.

Q Prior to his release from the hospital had he performed any official duties?

A Since he is a patient when he enters the hospital, a patient does not have any duties.

BY MAJOR FRITZ:

Q Who was it that sentenced Toriano to death by musketry?

A He was sentenced by musketry on the independent order of the guard and the constabulary.

Q When the Kempei Tai requested that a guerrilla or a suspected guerrilla be apprehended at Boroboro, for example, did they send their representative to procure him, or did they send a written request?

A In such cases no member of the Kempei Tai came to make the arrest. The Kempei Tai always requested their arrest.

Q Now, was that request sent directly to the garrison commander?

A No, it came to me.

Q Upon receipt of such a request what action would you take?

A If I did not wish to go personally, I did not. However, if I saw the necessity I would go out myself.

Q During the period January 1944, to April 1945, how many such requests did you receive for the apprehension of suspected guerrillas in the Boroboro, Concepcion, Granada district?

A Just one request.

Q That one request, is that the one which you have already testified to?

A Yes, just the Toriano incident.

Q How often did you inspect the various garrisons under your jurisdiction?

A I inspected the garrison of my subordinates five or six times after I landed in Negros.

Q By what periods of time were your inspections separated?

A There was no regularity in the time between inspections.

Q You stated you made approximately five or six inspections of your garrisons. Approximately how much time elapsed between each inspection? Were they all made in one month? Were they made one month apart? Two months apart?

A I had no set schedule for making such inspections, but I believe I made such inspections once in four or five months.

Q Under the authority of disposing of prisoners as you saw fit, were any civilians given a trial by your headquarters or members of your command?

A I carried out the orders of Colonel Yamaguchi and his warnings.

MAJOR FRITZ: Reporter, will you please read the question again and ask the interpreter to request a "yes" or "no" answer.

MR. WARD: Excuse me. At this time I guess I will call it an objection. The witness has previously hereto answered another Commissioner's question, the same question, specifying these men did not receive trial.

I believe the witness is under a mistaken fact as to what the Commissioner wishes; because he just previously answered the question. Therefore, the question would be asked and answered. If I am wrong, I certainly withdraw the objection.

MAJOR FRITZ: I believe Colonel MacKintosh's question was with reference to prisoners which had been sentenced to death.

MR. WARD: Will the Commissioner then kindly make his distinction clear? I am fairly certain the witness is misinterpreting it, the same as I did.

MAJOR FRITZ: I intentionally left that out of my question.

MR. WARD: Otherwise, the question would be asked and answered and the witness is under a misapprehension. How can he give the Commissioner a correct answer?

COLONEL STICKNEY: Do you understand the Commissioner wants a "yes" or "no" answer to his question?

MR. WARD: Yes, but that question has been asked and answered. The Commissioner is requesting knowledge on a slightly different subject and therefore the witness, as well as myself, is under mistaken belief as to what he wishes, because the specific question has been asked and answered. This is obvious by the witness' last answer to the question.

COLONEL STICKNEY: The objection is not sustained.

(The reporter read the question.)

COLONEL STICKNEY: He is asking for a "yes" or "no" answer.

A No.

MR. WARD: At this time may the witness be instructed that if he wishes he can explain his "no" answer.

MAJOR FRITZ: No further questions.

COLONEL STICKNEY: You have your shot at your witness.

MR. WARD: That is not what I am referring to. I mean any question can be explained. He was asked to give a "yes" or "no" answer. Many questions cannot be explained that way. He may wish to explain that "no."

MR. AITKEN: He has not stated he does.

COLONEL STICKNEY: We will continue with questions by the Commission.

MR. WARD: May the witness be instructed that he may explain that "no" answer, if he needs to? In other words, the Commission has no authority to make a witness answer "yes" or "no" without entitling him to an explanation. Otherwise, you could certainly tear any witness to pieces by making him answer peculiar questions "yes" or "no." He is entitled to explain them. I merely want him to be told that he may explain his last "yes" or "no" answer, if he wishes.

COLONEL STICKNEY: The request of the defense counsel is denied. As soon as the Commission has finished with the witness, we are going to let the defense counsel examine him again.

BY MAJOR HERR:

Q Two different dates have been mentioned as to the arrival of you and your unit at Bago -- namely, the 5th and 7th of December. Do you remember which one of those dates it was?

A I am sure it is the 5th of December.

Q Do you recall the date again on which Nanjo was wounded?

A December 6.

Q As soon as you moved into this new location, did you have training maneuvers that night?

A Yes, we trained them a little bit that day and we began the next day in earnest.

BY COLONEL STICKNEY:

Q You left Victorias on the 5th of December exactly, is that correct?

A Yes.

Q Will you restate how you particularly remember that it was the 5th and not the 4th or the 6th?

A I remember that date clearly, because the 5th of December was the day on which we were bombed most heavily.

Q Was the bombing at Victorias, at Bago, or on the road between?

A It was at the airfield between Victorias and Bacolod.

Q And you were passing that airfield by truck, is that correct?

A We dove for cover when the bombing began and we proceeded in that manner.

COLONEL STICKNEY: Will the reporter read the answer. (The reporter read the answer.)

INTERPRETER NISHIHARA: "In that manner" -- meaning that everytime the bombers would come over they would seek cover.

Q Well, the bombing then was neither at Victorias nor at Bago, but at some airfield somewhere near Victorias and Bacolod, is that correct?

A Yes.

Q Was it between Victorias and Silay, between Silay and Talisay, between Talisay and Bacolod?

MR. WARD: Objection. I think the question has been asked and answered. Unless the Commissioner is not familiar with the area, but there is a slight airfield just to the south of Bacolod.

COLONEL STICKNEY: I would like to hear that from the witness.

MR. WARD: I believe he has already testified. If so, objection withdrawn.

A Then I shall mention the names of these airfields. One was the Talisay airfield, the Silay airfield, Saravia airfield, and another one, the name of which I have forgotten, which was near Saravia.

Q What time of day was it that you first saw these bombers operating?

A I believe they began bombing around nine in the morning.

Q And you got off the road at that time, did you?

A We abandoned our trucks by the roadside and sought cover when the bombing attack began.

Q And that was at Saravia?

A In the vicinity of Saravia.

Q When did the bombing end, as far as your unit was concerned, in the vicinity of Talisay?

A The bombing lasted for about one hour and a half. In between the raids we advanced under cover.

Q What time were you permitted to advance regardless of cover on account of the bombing having been finished?

A About 10:30 or 11:00 o'clock.

Q You were then in the vicinity of Talisay, were you?

A Yes, we were in the vicinity of Talisay.

Q What time did you reach Bago?

A About 1 P.M.

Q What time did the evening exercise begin that evening?

A We started night maneuvers after supper about 7 o'clock.

Q How long did the night maneuver last?

A We held them until 9 o'clock.

Q Did you have maneuvers again the next morning?

A Yes, we began training the next day.

Q What time the next morning did your maneuvers start?

A About 8:30.

Q What time was Lieutenant Nanjo wounded that day?

A I believe it was about 10 o'clock that morning.

Q Was he in a vehicle of some sort at the time?

A Lieutenant Nanjo was a training officer and since I did not go to the scene of the accident until later, I did not know the details.

Q What time did you go to the scene of the accident?

A About 10 o'clock.

Q You say you didn't go there until later. How much later?

A About fifteen minutes.

Q And when you got there was he still there?

A Yes.

Q Did you then learn the details of the accident?

A Yes.

Q Had he been in a vehicle at the time he was shot?

A Yes, he was on a vehicle when the accident occurred.

Q What sort of a vehicle was it?

A A truck.

Q Was the truck driver also shot?

A No.

Q Was Lieutenant Nanjo the only one that was shot?

A Yes.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath, please?

(Interpreter Nitta translated to the witness.)

Q Did Nanjo go to the hospital in Bacolod that same day?

A Yes.

Q What time did he leave Bago for the hospital?

A I believe that it was about 10:30.

Q He had a bad scar on his face before he left, did he not?

A No.

Q Well, did he have bandages on his face when you saw him the first time at the Bacolod hospital?

A No.

Q Did he have scratches on his face and shoulders?

A No.

Q When did you first see him at the Bacolod hospital?

A I cannot remember.

Q Was it before you went there as a patient?

A I did not go to that hospital. I went to the dispensary at battalion headquarters.

Q Was battalion headquarters in Bacolod?

A Yes.

Q Was Colonel Yamaguchi at Bacolod?

A Yes.

Q You are now speaking about the day that you went to the dispensary, is that right?

A I went to the dispensary and Nanjo went to the hospital.

Q Yes, but when you went to the dispensary in Bacolod, was Colonel Yamaguchi and his battalion then located at Bacolod?

A Yes.

Q How long had he been back from Bago at the time you went into his dispensary there?

A I made an error in my previous statement. Colonel Yamaguchi was still at Bago at the time I went to the dispensary at battalion headquarters at the Bacolod-Murcia Sugar Central.

Q He and his headquarters were still at Bago then?

A Yes, the headquarters and the other companies were also at Bago.

Q Now, before you went to the dispensary at Murcia Sugar Central in Bacolod, had you visited Nanjo at the hospital in Bacolod?

A Yes.

Q How many times?

A I believe it was one time.

Q When was that?

A I cannot state clearly. However, I believe that it might have been about the 15th of December.

Q And you say that neither at the scene of the accident at Bago nor at the hospital on the 15th of December, did you notice any scars on Nanjo's face, is that correct?

A I did not see any scars.

COLONEL STICKNEY: No further questions by the Commission.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q Do you know the reason that the Yamaguchi unit or force was sent to Bago at that time? Referring to the 5th of December.

A Yes.

Q What was the reason?

A Intelligence reports indicated that the American Forces would land in the Bago area.

MR. WARD: No further questions from the defense.

COLONEL STICKNEY: From the prosecution?

MR. AITKEN: Yes, I have one or two.

FURTHER RECROSS-EXAMINATION

BY MR. AITKEN:

Q In answer to a question by a Commissioner, you stated Japanese officers and Japanese privates wore no distinctive uniforms. That was, I presume, for the purpose of making the officers inconspicuous, was it not? Inconspicuous so they could not tell them from the privates.

A They were just wearing the uniforms given to them by the army.

Q It is a fact, is it not, that the Japanese troops, the soldiers, wore either leather shoes or that split-toed heavy-soled rubber shoe?

A Yes.

Q Did you ever see officers wear the split-toed shoes?

A Yes.

Q Did they customarily do it?

A They wore it when it was necessary.

Q Do you mean if they hadn't any other?

A In case they themselves thought that they had to wear split-toed shoes, they wore them.

Q Customarily, however, the officers wore boots, did they not?

A No.

Q Was it unusual for them to wear boots?

A Yes.

Q Customarily, they also carried a sword, did they not?

A Yes.

Q Now, did you say that on expeditions it was usual for the officers to have a private carry his sword for him?

A Yes, there were times when such was the case.

Q When are those times when the soldiers would earn the distinction of carrying the officer's sword?

A Among the soldiers there are some who are experts at swordsmanship and such men were sometimes entrusted with carrying swords.

Q Do you mean by that that the sword is issued as a part of the equipment of the soldiers?

A There are no such stipulations but there are times when they are allowed to carry them.

Q Well, in the case of the Boroboro command, were swords issued to any of the soldiers there?

A I believe that there were one or two swords there and sabers.

Q Belonging to officers or issued to men?

A They were the soldiers'.

Q How many swords were issued to soldiers?

INTERPRETER NISHIMURA: At Boroboro?

Q Yes.

A I believe about two.

Q Are you sure?

A Yes.

Q Were there also rifles issued to officers?

A They do not have rifles themselves, but there are times when they borrow rifles from their men.

Q That is, they would borrow a rifle from the man and give him a sword to carry? Is that the idea?

A Ordinarily officers do not hand over their own swords. However, on things such as expeditions they might give them to their soldiers when they become weary.

Q When who become weary? The officer?

A Yes.

Q Well, you said sometimes the officers carried rifles and the men swords.

MR. WARD: I object to that. That was not the testimony that was elicited from this witness. He did not say sometimes officers carried rifles and sometimes soldiers carried swords.

MR. AITKEN: He made that statement in answer to a question from Colonel MacKintosh.

MR. WARD: That was not the meaning he intended for it, and I would like that part read back. This is a misquotation of the evidence. The Commissioner himself can

remember the question asked of the witness and he can recognize that fact. If he cannot, I wish that testimony to be read back.

MR. AITKEN: We will either go back to the record or I will take the Commissioner's recollection on it.

COLONEL STICKNEY: The defense counsel said something about what the meaning of the thing was. We are more concerned with the words ^{than} ~~that~~ we are with hidden meanings.

MR. WARD: ^{RCS} Statements as made in answer to the Commissioners' questions were not that just designated by the prosecutor nor were the words the same. The Commission has asked several questions in that regard, and each time the wording was completely different, with a different meaning. It was not tied together at all, such as counsel is putting it now.

COLONEL STICKNEY: It strikes me we are losing time. However, in order not to -- defense makes a point of this particular question -- in order to give him every right he possibly has and to be sure there is nothing done against his interests, we can bring the other reporter back and have that read.

MR. WARD: It is not a matter of right. I agree with you, we are losing time. It is a misquotation of evidence on a completely immaterial fact which counsel is attempting to do something with. ^{He has} ~~We have~~ been trying to break down this witness and the immateriality of his testimony for quite some time. This is completely outside the scope of any direct -- it is a completely immaterial issue. He would like to have the testimony of the witness misquoted back to

him on some fragmentary thought in trying to break down his testimony. It has already been done once, when we had the question of my talking to my own witness during an intermission -- whether or not he read the map on that table or over here. It was brought out that counsel was mistaken.

MR. AITKEN: I beg your pardon. Counsel was not mistaken. I have witnesses --

COLONEL STICKNEY: This is entirely beside the point and does not deserve one second of our time here.

MR. WARD: There is an objection to the question.

COLONEL STICKNEY: We will call the other reporter back, so as to read the thing which you say is mentioned.

MR. WARD: Or counsel can re-word his question.

COLONEL STICKNEY: Do you care to re-word your question?

MR. AITKEN: I will re-word the question. That will save time.

COLONEL STICKNEY: Very well.

Q In answer to a question from Commissioner MacKintosh, did you or did you not say there were times on these expeditions when the soldiers carried swords and the officers carried rifles?

A Yes, I did.

Q Now, under what circumstances did the soldiers carry the swords and the officer carry the rifle?

A According to combat necessities.

Q What do you mean by that?

A Citing examples, I will explain that officers are usually better marksmen than soldiers, and when the strength

is reduced the rifle is considered more effective than the saber. In relation to sabers being carried by soldiers, there are many among the soldiers who are expert swordsmen and there are times when it is impossible to fire and swords would be more effective.

Q Was it also for the purpose of having the officers look inconspicuous in among his troops, so that he would not be picked off as an officer?

A There are hardly any reasons of that nature.

Q In such expeditions as would occur around Boroboro, where engagements were possible against guerrillas, was the carrying of a sword by a private an advantage, instead of a rifle?

MR. WARD: Objection at this time. You are asking for an opinion. Unless you have some reason for wishing opinion testimony, at this time we will object to it. It is merely asking him under some set of facts, "What was the general situation?", but he admits that he has only visited five or six times. You are asking him what the officers do out on those patrols. It would be merely a matter of opinion testimony, and I don't believe there would be sufficient background. How can he make a specific opinion of something he cannot possibly know?

MR. AITKEN: He also testified around Boroboro in these proceedings there were occasions when some of the soldiers carried swords.

MR. WARD: That is right, and he specified the reasons.

MR. AITKEN: The purpose of why he was asked that,

of course, is obvious. This goes to his integrity as a witness.

MR. WARD: You are asking not for facts, but merely an opinion, and it is objected to. This man is in no position to make an opinion. He admits he has not been there. I object. It is merely asking for a conclusion from the witness, which is certainly adequate grounds for an objection back in the States. Even for this Commission, I don't think it would be sufficient for probative value of immaterial facts, much less an opinion.

MR. AITKEN: It attacks his veracity, because he would have to give a possible reason for the soldiers in this country and in that vicinity to carry swords.

MR. WARD: I grant that is exactly what counsel is trying to do, to attack his veracity in some respects, and he is trying to by opinionative evidence of some place the man knows the general situation but nothing specific, at a time or times when out in the field the whole move would be obviously at the thought of the particular officer or garrison commander, who may be a sergeant major. Now, if that is the purpose of the counsel, it is obviously immaterial because it is asking for opinion testimony in one instance and cannot possibly test the veracity -- it would be merely an opinion. In addition to the immateriality of it, which we now find is the reason for counsel's question, it asks for a conclusion, which is a proper objection.

COLONEL STICKNEY: The objection is not sustained.

(Reporter read the question.)

A That depends on the time and place.

Q Do you know of any specific instance in an expedition of any kind in the vicinity of Boroboro where the soldiers carried swords?

A Yes, I have heard of such instances.

Q Do you know of your own knowledge?

A It is what I have heard.

Q I do not know what you have heard. I am asking you, do you know of your own knowledge? Have you seen them?

A I have heard about it.

Q Have you seen them?

A Yes.

Q And how many times?

A Once.

Q When?

A On the expedition where Toriano was our guide.

Q Who was armed with a sword at that time?

INTERPRETER NISHIHARA: The witness says that he cannot remember it now. If he should be given a little more time, he might be able to.

Q How many officers were there at that time?

A Two officers: Lieutenant Nanjo and myself.

Q Did you both carry swords?

A Yes.

Q Was there a soldier, in addition to you two, who also carried a sword?

A Yes, the sergeant major had one.

Q Those were the three swords that were carried during that expedition, is that true?

A There were some other sergeant majors on that expedition also.

Q All carrying swords?

A Yes, at that time they did.

Q Can you name some of them?

A I can give as many as I remember. I remember the following three: Sergeant Majors Nakamura, Suzuki and Nakashima.

Q By the way, where is Suzuki now?

MR. WARD: Objection. It is immaterial where Suzuki is now.

COLONEL STICKNEY: Any reply?

MR. AITKEN: Yes, he has mentioned the persons there. I am trying to get information who these people are, to check on them.

MR. WARD: That is exactly what counsel is doing. He is fishing again in this case. The whole case is a fishing expedition. One other time we had a witness on the stand and we wanted to find out where the husband and children were. We asked a question, it was objected to by counsel as immaterial and was sustained. That witness was Mrs. Beter. This obviously counsel admits himself. He has a right to know where these men are. What difference does it make where these men are now, unless it is with one specific reason: a fishing expedition.

MR. AITKEN: If counsel will assure me that Suzuki is still alive, I won't ask further questions.

MR. WARD: I don't believe I have heard that name before.

COLONEL STICKNEY: I suggest that you ask him if

Suzuki is alive.

MR. WARD: That again is objected to.

COLONEL STICKNEY: The objection is overruled.

MR. AITKEN: I will withdraw my last question, and ask this question.

Q Is Suzuki still alive?

A I do not know.

MR. AITKEN: I think that is all.

COLONEL STICKNEY: Anything further from the defense?

MR. WARD: Just a second, please.

COLONEL STICKNEY: While we are waiting, the Commission can ask questions.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q When you were on the expedition with Toriano as a guide -- you and Nanjo -- you proceeded to the coal fields -- Nanjo went to the coal fields with you, did he not?

MR. AITKEN: Might I suggest to the Commissioner -- perhaps I could be wrong -- it was not a coal field; I think it was a coal pile that burned.

Q A coal pile.

A Yes, Nanjo went together with me.

Q And Nanjo stayed right with you until you got back to Bacolod, did he not?

A Yes.

Q There was no chance of Nanjo seeing Toriano again after you saw him then, is that correct?

A I believe he did not have any opportunity to see him again.

Q But Nanjo was on the expedition where Toriano served as a guide after the Kempei Tai had turned Toriano back to your company, is that so?

A Yes.

COLONEL STICKNEY: Anything from the defense?

MR. WARD: Yes, I have just one question.

FURTHER REDIRECT EXAMINATION

BY MR. WARD:

Q You were asked a few minutes ago if you knew of any specific instances when soldiers carried swords. You responded, "Yes, I have heard," and you spoke of the Toriano expedition. Would you have any occasions to know whether or not on these hinterland expeditions if soldiers carried the swords of officers?

A Yes.

Q When the Kempei Tai wished a man that was believed to be located within the city of Bacolod, would they notify you to have that man arrested?

A No.

Q It would just be the arrest of those persons believed to be without the city limits of Bacolod that you would be notified, is that correct?

A He might request me, and he might request other companies which were outside Bacolod.

MR. AITKEN: I would like to ask counsel to tell what he means by those last two questions. The city of Bacolod proper, excluding the barries such as Granada, Concepcion or Boroboro?

MR. WARD: I will rephrase the question.

Q You stated that the Kempei Tai did not request you to arrest a man who was within the city of Bacolod. Do you also include within the city of Bacolod such barrios as Concepcion, Granada or Boroboro?

COLONEL STICKNEY: Before he answers that, I am of the opinion that Concepcion is in Talisay, rather than Bacolod.

MR. AITKEN: That would be all right. I was not thinking of the places themselves, so much as the question itself.

MR. WARD: I withdraw Concepcion, and just refer to Granada and Boroboro.

MR. AITKEN: That will be all right.

A I am just referring to the city itself and those barrios are not included.

MR. WARD: No further questions.

COLONEL STICKNEY: Anything further from the prosecutor?

MR. AITKEN: No further questions.

COLONEL STICKNEY: Anything from the Commission?

(There were no further questions from the Commission.)

That is all for this witness.

(Witness excused)

COLONEL STICKNEY: The Commission is about to adjourn and reconvene at 0830 hours on the 28th of October, at which time we will have the next witness?

MR. WARD: I will see what the situation will be over the week end. I have some work to do on the case.

COLONEL STICKNEY: It is very important that we have that man on the stand and get rid of him before he comes to his own trial on Wednesday.

MR. WARD: I am still going to talk to Mr. Bonda on that affair. It is undecided in my mind at this time whether or not the Colonel will take the stand.

COLONEL STICKNEY: There is a possibility that you may not use him?

MR. WARD: That is right, we may not use him. If we do, he will be on the stand Monday morning.

COLONEL STICKNEY: You are still making every effort of contacting every witness in Japan, with the idea of expediting this trial?

MR. WARD: The assistant executive officer of War Crimes has been notified and has sent a wireless. Other than that I am completely powerless. That is our only method of communication.

COLONEL STICKNEY: The Commission desires that you keep right after it just as hard as you can.

MR. WARD: I have done my best.

COLONEL STICKNEY: I hope you will do your best and that your best will be a little better than it has been in the past. The Commission will adjourn and will reconvene at 0830 hours on the 28th of October.

(The Commission adjourned at 1130 hours, to reconvene at 0830 hours, 28 October 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

vs

MASAO NANJO

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PUBLIC TRIAL

VOLUME XIX

PAGES 1078 to 1099 INCL.

MANILA, P. I.

DATE: 28 October 1946

COPY NO.: /

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

UNITED STATES OF AMERICA

MASAO NANJO

Court No. 2
High Commissioner's Residence
Manila, P. I.
28 October 1946

COLONEL RICHARD C. STICKNEY, INF, President & Law
Member
LIFUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

ah

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Leo B. Curry	1088				1090

P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 28 October 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, and the assigned interpreters of Japanese, Nishihara and Saito, the reporter, are present.

MR. WARD: At this time the defense wishes the Commission to take judicial knowledge of the direct testimony of Colonel Yamaguchi in the case of the United States of America versus Takeshi Kono, Volume VIII, page 720, starting with the direct examination by Lieutenant Waters.

At this time the reporter need not take this down because it is going to follow directly the transcript and the reporter can have the transcript.

COLONEL STICKNEY: It is going to be continuous without omission, is that it?

MR. WARD: That is correct.

"DIRECT EXAMINATION (of Masakazu Yamaguchi)

"BY LIEUTENANT WATERS:

"Q Please state your name.

"A Masakazu Yamaguchi.

"Q What was your rank in the Japanese Army at the time of the surrender?

"A Colonel.

"Q In what capacity were you serving in your last assignment prior to surrender?

"A Battalion commander of the 172d Independent Infantry Battalion.

"Q Did you ever serve under Lieutenant General Takeshi Kono?

"A I was under the direct command of Lieutenant General Kono.

"Q Between what dates did you serve under General Kono?

✓ "A From May 1943 till just before the surrender, August 14, 1945.

"CAPTAIN YARD: Will you read back the last answer, please.

"(The last answer was read by the reporter.)

"LIEUTENANT Mc CULLOUGH: The Commission has instructed me to inform you that you may refuse to testify to any matter which would incriminate you in later cases brought against you as a war criminal, and that if you are asked such questions, either on direct or cross-examination, you may refuse to answer those questions on the grounds of personal privilege as guaranteed you under the Fifth Amendment to the Constitution of the United States.

"CAPTAIN YARD: May it please the Commission, the Government objects to the extension of the privilege of self-incrimination to this witness for the reason that this privilege is not accorded the witness under the letters and rules of procedure which govern these trials, and for the further reason that the benefits of the Fifth Amendment do not extend to this witness. We offer as precedent for this statement the case of

the United States of America vs. Tomoyuki Yamashita.

"COLONEL HAMBY: The Commission will take a short recess.

"(Short recess.)

"COLONEL HAMBY: The Commission is now in session.

"The objection of the prosecution is overruled.

"(The interpreter translated to the witness.)

"THE WITNESS: (Through interpreter) I understand.

"BY LIEUTENANT WATERS:

"Q During the time that you served under General Kono what was the chain of command between him and yourself?

"A I was under the direct command of Lieutenant General Kono.

"Q While you were battalion commander of the 172nd Independent Infantry Battalion what was the physical or geographical jurisdiction under your command?

"A 174th Battalion Commander.

"Q Is it 172nd or 174th?

"A It's 172nd Battalion of the 174th Brigade.

"LIEUTENANT WATERS: Will the reporter read my original question.

"(The requested question was read by the reporter as follows:

"Q While you were battalion commander of the 172nd Independent Infantry Battalion what was the physical or geographical jurisdiction under your command?")

"A From May 1943 up to August 1944 I was security commander of all of Negros Island. Subsequently, when the Kawano Army Group came to Negros, I came under his

army group command and stayed as such until the time of surrender.

"CAPTAIN YARD: Just a moment, please. Will you read back the last half of that answer, starting with, 'when the Kawano army group --.'

"(The requested part of the answer was read by the reporter.)

"Q When you speak of the Kawano unit, do you mean General Kono's Command?

"A Yes.

"Q What was the mission of the 172nd Independent Infantry Battalion during this time?

"A To maintain security, peace, and order on Negros Island. Furthermore, to guard against the attack of United States forces from the ~~rear~~ and to maintain security against guerrilla action, and to guard the safety of the rear areas on Negros.

"Q I ask you to state whether or not the maintenance of internal peace and order was part of your strategic objective.

"A It is a strategic objective to guard Negros, which is a strong point in the rear.

"Q Please state whether or not there were obstacles to the carrying out of that part of your strategic objective on Negros Island.

"A At this time, on Negros, they had Lieutenant Colonel Mata and Lieutenant Colonel Habusede as the center or core. The equipment of the Japanese Army as compared with

the enemy, which had Thompsons, carbines, and automatic rifles, they were much more powerful. The guerrillas numbered around ten thousand within the island. And they had wireless kits for communication and liaison purposes between the islands and outside of the islands to Australia, and powerful enough to have liaison with United States mainland. These guerrillas were one of the main obstacles.

"Q Did these guerrilla forces attack the Japanese garrisons on Negros?

"A Small groups of Japanese soldiers had to guard a wide area and would receive constant attacks from powerful guerrilla forces. Communication lines to the rear area were always attacked and damaged, especially around April of 1944 in the barrio of Himamaylan on south Southern Negros, the guerrillas attacked and burned the village and considerable amount of people were killed and some were taken to the mountains.

"South of that point was a big city called Kabankalan and for over a period of about one month guerrillas enveloped this town and a security unit was almost annihilated. The town was burned. I went to help this situation and after a difficult time broke down the envelopment, but many people in the Japanese area were taken to the mountains or killed. This is only one of the examples of a small force guarding over a wide area.

"Compared to the guerrillas, the Japanese forces only had single-loading rifles while they had automatic rifles and machine-guns, and to maintain a security guard was very hard and trying. As far as I can remember, for that one year the battalion lost about a third of its manpower."

MR. WARD: To continue on with the direct examination of Colonel Yamaguchi, it is related to be an adjacent island of Panay. It is known that during this time this was more or less the headquarters of the Japanese in the southern part of the island and it only shows the relative importance of this area. I do not believe the description of the Panay Island would be material in this case except as to that it was an important area and Colonel Yamaguchi only knew that area by hearsay. Therefore, the direct examination is limited to that.

COLONEL STICKNEY: For the purpose of the record and the reporter, will you state how far and on what page you went before you start?

MR. WARD: From the middle of page 720 to the middle of 724. The defense will again invite the attention of the Commission to the United States of America versus Tadashi Watanabe, Volume II, in regard to the testimony of Andres Caballes, starting on page 109 under cross-examination:

"Q Were you also interviewed concerning the incidents at Fabrica recently before coming to the courtroom?"

COLONEL STICKNEY: Just a moment, is this also Yamaguchi?

MR. WARD: No, this is Andres Caballes, page 109 of Volume II, United States of America versus Watanabe. Again,

"Q Were you also interviewed concerning the incidents at Fabrica recently before coming to the courtroom?"

"A Yes.

"Q Did you talk to the prosecuting attorneys about your testimony in this case?

"A Yes.

* * *

"Q And after the interview, did you sign and initial the statement for that American?

"A Yes, I signed the papers because the interpreter told me that Watanabe had just been captured and that in order to hang him I had to sign.

* * *

"Q And are you --- you signed that statement because you felt that signing that statement would hang Watanabe?

"A Yes.

"Q Were you able to read what the American put into that statement?

"A No, I did not read it.

* * *

"Q And you did not understand anything that was in this statement except that the investigator told you what was in here should hang Watanabe?

"A That's true."

MR. WARD: At this time ---

MR. AITKEN: One moment. I noticed the reporter is taking notes at this time. I was wondering whether the reporter ---

(In this instance of reading from the Watanabe record the reporter took the questions and answers read by the defense counsel, and so informed the Commission and

the prosecuting attorney.)

MR. AITKEN: Then, I want to make an objection. Now, I don't think it is properly a part of the record, because theoretically the Commission has judicial knowledge of all records and as a matter of course of particular knowledge we know that you don't know these things unless they are called to your attention. But if a lot of extraneous matter is read in court that does not belong in the record, it should not be there. I can't object to a Commission taking judicial knowledge of what it has judicial knowledge of, but I can object to extraneous matters going into the record that don't belong there and what was read, as far as I can see, has no part in this record -- it is immaterial.

MR. WARD: It has a very definite part.

COLONEL STICKNEY: Well, I would like to make a statement here that without stating whether different members of the Commission are going to find it of any value to them or not, in case any of them are we also want the reviewing authority to know what that has been, so that if it is read for our benefit we do want it in writing for the benefit of the reviewing authority.

MR. AITKEN: Then, I would like the record to show that I move that that be stricken out as immaterial in the case here and let the Commission rule on it. I don't think it belongs in the record.

COLONEL STICKNEY: I don't think there was anything in there that was pertinent, as far as I can see there was nothing.

MR. WARD: If the Court takes judicial knowledge in the fact that the case against Watanabe was also a Negros case. It was investigated by a certain string of the prosecution's investigators. These cases are all a chain. The Nanjo case, the Yamaguchi case, the Watanabe case, and they are all being tried at the same time for the similar reason. Now, we have shown during the course of this trial the type of investigation that was done in these cases. This is another similar instance, the type of investigating done in the Negros cases. Also showing, in addition to the type of investigating, the relative feelings of the witnesses that are on the stand. It corroborates the feelings that have been stated to the Commission during the last three weeks, and **certainly** it is material to put that before the Commission to show the relative value of the testimony of the witnesses that come from these islands.

MR. AITKEN: The point I would make here is this, that I don't know who the affiant was that made these statements, or the witness, Andres Caballes, and he or she said that he executed a document and did not know what it was about. Now, what that has to do with any statement that was made by the **twelve** or thirteen witnesses produced in the Nanjo case, in this present case, only the Lord knows. I cannot tell, nobody else can tell it, because somebody in another case wrote or signed an affidavit, because they were induced to do it wrongfully or through some ill feeling, has nothing whatever to do with the witnesses in this case. You can't prove that John Smith

murdered somebody by bringing evidence that Bill Jones murdered somebody else, and that is about what he is trying to do here.

COLONEL STICKNEY: Your objection is in regard to the Caballes record, and not to the Yamaguchi record?

MR. AITKEN: Yes, I have no objection of any kind to the Commission taking judicial knowledge of any record because it has that judicial knowledge, and I have no objection to the Commission being directed to any particular part of a record of which it has judicial knowledge, realizing that there must be some direction to the Commission to call its attention to these things which theoretically it knows all about and practically don't know anything about. So therefore it is a convenience to have the attention of the Commission drawn to the particular part to which judicial knowledge is being directed there. But this is something that is entirely extraneous and while you know all about it theoretically you pay no attention to it unless it has some value, but here it is cluttering up the record.

COLONEL STICKNEY: The objection is denied. The statement will be spread on the record for the purposes of the reviewing authority to give him such probative value, if any, as it may have.

MR. WARD: At this time we request approximately fifteen minutes delay, as our next witness is the last one at this time and he should be here in approximately a quarter of an hour.

COLONEL STICKNEY: The Commission will take a fifteen-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

LEO B. CURRY

a witness for the defense, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SCHAUER:

Q What is your full name, Mr. Curry?

A Leo B. Curry, Jr.

Q You are an investigator for the defense counsel for War Crimes Trials, are you not?

A Yes, I am.

Q You have spent considerable time investigating cases down on Negros Island, have you not?

A Approximately six weeks.

Q And are you thoroughly familiar with the City of Bacolod on the Island of Negros?

A Yes, I am.

Q Is there a hospital in the City of Bacolod situated on Lacson Street?

A Yes.

Q By what name is that hospital commonly known by the inhabitants of Bacolod City?

A It is known as the provincial hospital of Negros Occidental.

Q Were you present here in the courtroom when Solidad Pastrano and Dr. Kanda testified?

A Yes, I was.

Q And did you hear the testimony of those two witnesses with reference to the hospital on Lacson Street?

A Yes.

Q Would you say that that is the hospital that you designate as the provincial hospital?

MR. AITKEN: That is objected to as calling for the conclusion of the witness to determine a fact which this Commission has got to decide. The evidence of these people mentioned is in the record. Their descriptions of the hospital, and so forth, is in record. This Commission has got to decide from what they have testified as to whether they have testified as to this hospital and it can't be decided for the Commission by some other witness who listened to some testimony and who listened to the same testimony that the Commission has. I was willing to go into a stipulation that the provincial hospital on Lacson Street of today was also known as the provincial hospital of Negros prior to the war, but I wouldn't go any further than that. My objection goes to the testimony as asking the witness to decide a question of fact which the Commission has got to decide.

MR. SCHAUER: I believe previously I asked the two questions: whether the witness was in court when those two witnesses testified and whether he heard their testimony with reference to the hospital -- and I think he is qualified, not only qualified, but I think it is perfectly proper for him to relate this testimony to the knowledge which he has first hand, having been down in Bacolod, and I see no harm in the question at all and do think it is proper.

COLONEL STICKNEY: The objection is sustained.

Q Mr. Curry, is there any other hospital on Lacson Street?

A No, there is not, to my knowledge, and I know the city thoroughly.

MR. SCHAUER: That is all. No further questions.

MR. AITKEN: That is all, Mr. Curry. No cross-examination.

COLONEL STICKNEY: We have questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q How long a street is Lacson Street?

A Lacson Street runs north and south entirely through the city.

Q Is it a mile long, two miles?

A It is also the provincial highway. As it enters the city it is known as Lacson Street.

Q How long would you say it is?

A Well, within the city limits, I would say it is perhaps three kilometers long.

Q When you say that there is no other hospital on that street within your knowledge, you are speaking of a street three kilometers long?

A Yes.

Q When you say it is known as the provincial hospital, you mean that is what it is known now, while you were down there in recent months?

A I know that it is known as that now, and some Filipino citizens I have talked to down there have told me it was also known by that name before the war.

Q Are you familiar with the other hospitals in Bacolod?

A Yes, I am.

Q What ones do you know?

A I know of the Philippine Army Hospital there, which is known as the 31st Station Hospital. That and the provincial

hospital are the only two that I call public hospitals. There are small private clinics situated in the town. They are not known as hospitals, however.

Q Do you know a hospital there known as the civilian hospital?

A The provincial hospital is the civilian hospital.

Q Do you know where the Bacolod Sanitarium is?

A No, I have never heard that name -- Bacolod Sanitarium.

Q The two witnesses that appeared on the stand, you say you heard them. Did you hear everything they said from the time they started until they were dismissed?

Were you present at all meetings over a few days?

A No, I was not. I was here only one day. I listened to perhaps a half hour or forty-five minutes of testimony concerning the hospital.

Q Can you describe this hospital on Lacson Street that you are familiar with?

A I think I can describe it very well. It is a two-story cream-colored building with a stucco finish. It has a red roof. I am not too good at judging the size of it. It consists of one main center building. I can't be certain but I think that there are two smaller buildings situated on the left and on the right of the center building.

Q Can you say definitely there are buildings on both the right and the left?

A No, I can't say definitely.

Q Can you say definitely there are buildings on either the right or the left?

A No.

Q Are you familiar with the possibility of buildings or additions on the rear?

A Yes, I have been to the rear. The nurses' quarters are in

the rear. There are several small two-story buildings built as homes in the rear of the main hospital building.

Q Is the building itself of stucco, you say?

A Yes.

COLONEL STICKNEY: No further questions by the Commission. Do you have anything further?

MR. AITKEN: No further questions.

MR. SCHAUER: No further questions.

COLONEL STICKNEY: Witness excused.

(Witness excused.)

MR. WARD: At this time I wish to refresh the Commission's recollection as to one of the opening statements by the defense. We stated that due to the fact that our investigators had not completed their investigation that we may at the end of the testimony now collected be required to ask for a continuance. We have an investigator in Japan with two important witnesses having been requested of him. At this time, and I have checked it recently, this morning, in fact, from our Executive Office, we have had no response to a wire sent a few days ago demanding some sort of statement by that investigator as to these witnesses. At this time we request a continuance until 0830, Monday, one week from today.

COLONEL STICKNEY: It is understood that --
Do you have something, Mr. Aitken?

MR. AITKEN: I want to object to the request for that continuance. I don't think there is any sufficient showing on the statement counsel made that warrants a continuance and, of course, I have an addition to that. I have a very personal reason, in that I am due -- I ought to be in Tokyo now -- and I am not down here for an indefinite

period. I stayed on with the case here because I had begun a job and I wanted to stay and finish the job, and I still feel that way, but it is a tremendous inconvenience to me. I am on a 60-day TDY, which time expired on the 23rd of the month. I am a week over now, and unless there is some real reason shown, I don't think the continuance ought to be granted on the showing made. There is no showing at all.

COLONEL STICKNEY: Of course, we are not interested officially in your personal reasons and it may be possible that the case would have to be concluded with a different prosecutor from here on. I would like to ask, though, am I to understand that you have had investigators up there in Tokyo, at least for the three weeks that this court has been sitting, trying to find two Japanese possible witnesses for the accused, is that correct?

MR. WARD: We have had very definite addresses of these two Japanese. They are not in the immediate vicinity of Tokyo. One, I believe, is some fifty kilometers beyond the city, and the other one hundred and twenty-five kilometers from the city. Our investigator has sent back two notes in reference to these places, stating that he has had no cooperation whatsoever from the existing authorities in Japan, mainly as to transportation and, secondly, for his own personal requirements as to housing. He states the reason for his delay in not being able to get to these areas is completely on this lack of cooperation between the forces in Japan and the forces here. Therefore, it is not within his own power, in stating that he has not been able to get to these persons. However, counsel's stand is very interesting. At the very beginning of this case we made a motion. I will

refer to one-half of it, in that the various dates and places be made more definite. The motion at that time was refused. The data as given by counsel showed that he had definite dates and definite places. Therefore, it puts the defense in a very difficult position. Certainly he said there were to be amendments made at the time as to places in the Specifications. At that time we told him that we would need further extension of time and he stated then that he would make no motion to refuse a continuance or extension of time. At this time counsel is taking the stand that he is going to make a motion against that extension and he states there is no reason. I, personally, believe the life of any man is adequate reason.

MR. AITKEN: That was three weeks ago.

MR. WARD: Granted.

MR. AITKEN: We can do a lot of work in three weeks.

COLONEL STICKNEY: It strikes me there is something definitely wrong with the organization of the defense in this case, if after having been sitting for three weeks we are still no further along as the result of the investigator in Japan than we were when we started.

MR. WARD: I agree with the Commission one hundred per cent.

COLONEL STICKNEY: And I am very anxious not to make any arbitrary ruling that is going to hamper the defense. I would just like to know first: am I right -- you do have an investigator up there now for more than three weeks trying to get hold of two Japanese possible witnesses?

MR. WARD: Approximately three weeks. I cannot give the Commission exact dates, and I agree with the Commission --

COLONEL STICKNEY: We were sitting three weeks ago today. Was he then on his way?

MR. WARD: Yes, he was there three weeks ago. I agree with the Commission one hundred per cent. They have every right to be perturbed and so is the defense perturbed. Not only are we very perturbed but we are hampered extremely by lack of transportation both up there and down here. We have no transportation whatsoever and we had no notice upon going to trial. When you combine those two things, defense is put under a terrific strain. Lack of transportation is our reason for asking for a continuance, and we recognize the fact that it costs approximately five hundred dollars a day for a delay. The lack of transportation is the sole reason and we are just as perturbed and angry about it as the Commission is in this instance.

COLONEL STICKNEY: Of course, you realize that talking to the court about failure to get transportation is not going to get you transportation.

MR. WARD: I recognize that fact.

COLONEL STICKNEY: You have to talk to somebody else other than the members of the Commission.

MR. WARD: We have hollered and screamed.

COLONEL STICKNEY: I would like to go further into this. You had hoped to get certain testimony from these two Japanese when you sent your investigators to contact them?

MR. WARD: Very important testimony, sir.

COLONEL STICKNEY: And some of that testimony, I presume, would tie in with some of the other testimony?

MR. WARD: It is very directly related.

COLONEL STICKNEY: But after three weeks of trying, you still have no more knowledge about any of the things you expected to get from them than you had when you started, is that right?

MR. WARD: Naturally. I know generally what they are going to testify to, but I have had no opportunity of speaking to them.

COLONEL STICKNEY: The letters have told you nothing?

MR. WARD: As far as we know, no contact has been made because he could get no transportation.

MR. SCHAUER: We don't want to delay this any more than necessary, if the Commission please, and we would not be so concerned about the testimony of these witnesses if we didn't feel it is extremely material to this case. If they were going to testify to incidental matters or matters we didn't feel were vital to the interest of the defendant, we would not be concerned about continuing it; we would feel the expense, the delay, and so forth, would not justify any lengthy continuance. But, we do feel in this instance, from our investigation, we believe these witnesses will testify to very significant material facts so far as the defense of this defendant is concerned, and that is why we are asking for the continuance. We don't like to delay this case any longer than possible, because we have additional cases that we want to go to trial on.

MR. AITKEN: I want to say this as to the transportation in Japan. Japan has very excellent train service. Trains 115 kilometers, unless it is completely out in the wilds somewhere, is nothing at all. There are any amounts

of Army and official jeeps and sedans up there, and anybody who couldn't get to a witness 115 kilometers away, forty miles or thereabouts, is not doing his job.

MR. WARD: I want to add one statement to counsel's very enlightening observation. I agree with him thoroughly. In Manila we have many jeeps, we have adequate transportation facilities in this area, and yet let it be known on the record and for counsel's enlightenment that we have two jeeps of our own for the defense. We have material sitting on our desks needing immediate check that sits there for two or three days while the investigators are stymied, because they have no transportation. Transportation has not been allotted to the whole defense section, although there is adequate transportation, to our belief, within the area. Therefore, although there may be adequate transportation in this area, we are not getting it, and neither are they getting it up there, and we have been objecting very strongly to no avail.

COLONEL STICKNEY: All these comments from both the prosecution and defense are getting us nowhere, except to make our record longer. They are not going to get your investigator any transportation.

MR. WARD: Perhaps it may go to SCAP, who might take some action.

COLONEL STICKNEY: That may help your next case, but it does hurt this case by prolonging the record. I would like to know is there any part of the expected evidence from these two witnesses that can be stipulated between the prosecution and the defense?

MR. WARD: I have talked to Mr. Aitken and there is none to my knowledge.

MR. AITKEN: I haven't heard one sentence that concerns the prospective evidence. I haven't the slightest idea of who the parties are and what they are expected to testify.

MR. WARD: At this time, because it is going on record that there has been no attempt made to stipulate, I want to say that I came to this desk where he is sitting the other day and told him that I had been requested to ask for a stipulation. I started in with one of the witnesses who happens to be a doctor at the head of the provincial hospital in Bacolod and my first statement was that that doctor is going to testify as to the exact date Nanjo came into that hospital. Mr. Aitken said he would make no such stipulation.

COLONEL STICKNEY: With the understanding that a portion of the testimony may be merely corroborative and that a stipulation that if so and so were here on the stand he would say so and so does not mean that the stipulator believes he would tell the truth under oath, we will take a short intermission, and I would like the prosecutor and the defense counsels to make every effort to get together on at least a partial stipulation of what can be arrived at during this short intermission.

(Short recess.)

COLONEL STICKNEY: The Commission is in session. Have the defense and prosecution arrived at a stipulation?

MR. WARD: There is no stipulation possible as far as I can see, sir.

COLONEL STICKNEY: The Commission will adjourn to reconvene at 0830 hours on the 1st of November, or at the call of the President. In case the Commission does not reconvene before the 1st of November it is understood the interim will be used both for the procurement if possible of further evidence, if any, and for the preparation of final arguments by both the defense and prosecution without further delay for that purpose. Is that understood?

MR. AITKEN: Yes, I want to announce at this time that when the defense closes its case, I will have two very short witnesses.

COLONEL STICKNEY: In rebuttal?

MR. AITKEN: In rebuttal. It won't take more than twenty minutes.

COLONEL STICKNEY: With that understanding, the Commission will adjourn to reconvene at 0830 hours, the 1st of November, or at the call of the President.

(The Commission adjourned at 1020 hours to reconvene at 0830 hours, 1 November 1946, or at the call of the President.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

) PUBLIC TRIAL
)
)
)

VOLUME XX

PAGES 1100 TO 1170, INCL.

MANILA, P.I.

DATE: 8 November 1946

COPY NO: 1

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
8 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	Japanese
2d LT. TAICHI NISHIHARA	)	
2d LT. JAMES NAKAMURA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	Ilongo (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY COM.</u>
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Masao Nanjo	1149				
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E X H I B I T S

	<u>OFFERED</u>	<u>RECEIVED</u>	<u>WITHDRAWN</u>
Defense's Exhibit C		1115	

P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 0830 hours, 8 November 1946, in Court No. 2, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is now in session at the call of the President, having adjourned on Monday, 28 October.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the interpreters Lieutenant Nishihara, Sergeant Saito, Lieutenant Nitta, are present in court, and the reporter.

MR. WARD: At this time we wish the record to show that the recent recesses and any meetings between the President of the Commission and the counsels for the defense have been regarding continuances as to obtaining our witnesses from Tokyo and any irregularity therein is waived by the defense.

At this time we wish to have read into the record the impeaching statements of Leopoldo Agravante. Leopoldo Agravante was impeached on cross-examination and this affidavit is the affidavit that was served on the defense by the prosecution. It is signed by Leopoldo Agravante, sworn to and subscribed before James S. Miner on the 28th day of February 1946 as being understood, consisting of two pages and is true to the best knowledge and belief of the said Leopoldo Agravante. It is also sworn to before Manuel Javellana, 2nd Lieutenant, Infantry, residing at

1100

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San Sebastian, Bacolod City, Occidental Negros, as having been correctly translated from English to Visayan and from Visayan to English respectively, also sworn on the 28th day of February 1946, sworn to before the said James S. Miner, 2nd Lieutenant, Infantry, Investigating Officer, War Crimes Investigating Detachment, and certified to be a true copy by Claude M. Owens, 2nd Lieutenant, Infantry. It is as follows. At this time the reporter need not transcribe it as she can have my copy later.

COLONEL STICKNEY: Are you going to read this in full now?

MR. WARD: That is correct. It is reasonably short, a page and a-half.

"R E S T R I C T E D

"Leopoldo Agravante, after having been duly sworn, testified at Bacolod City, on 28 February, 1946, as follows:

"Q Please state your name, age, nationality, address, occupation and religion.

"A Leopoldo Agravante, 38 years old, Filipino, residing in Balogo, Bacolod City, farmer, and Roman Catholic.

"Q In case you should move, how shall we be able to locate you?

"A You may inquire of Sebastian MAGAN, residing in Balogo, Bacolod City.

"Q Where were you living when the Japanese Forces occupied Negros?

"A I was living in Balogo, Bacolod. I stayed there until the American Forces landed on Negros.

"Q Do you know anything of any killing of civilians or prisoners by the Japanese in or around Boroboro, Bacolod?

"A Yes, I saw Faustino Alindog, 65 years old, Filipino and Ricardo Alindog, 20 years old, Filipino, both residing in Balogo, Bacolod City killed by the Japanese under the command of Lieutenant Nanjyo, the commander of Boroboro garrison.

"Q Please tell us all what you saw regarding this killing.

"A On December 21, 1944, at around five thirty in the morning, I was awakened in my home in Balogo by some noise. I looked out of the window and saw about fifty Japanese with Lieutenant Nanjyo surrounding the house of Faustino Alindog which was only about thirty meters away from my own house. Three Japanese soldiers whom I do not know came up my house and asked me where the guerilla was. I answered that I do not know. One of the Japanese soldiers then boxed me and then kicked me on the left thigh. I fell down. My hands were then tied behind my back. The three Japanese soldiers brought me down the house. It was at this time, that I saw Faustino Alindog, his son Ricardo Alindog and Faustino's wife, Romana Ballesteros, 65 years old and Filipino surrounded by Japanese near the stairs of their house. I saw Lieutenant Nanjyo box and kick many times Faustino Alindog. I also saw Lieutenant Nanjyo box Ricardo Alindog many times. Simultaneously a Filipino Constabulary by the last name of Banez (first name unknown) was giving blows with his closed fist to

both Faustino and Ricaredo Alindog. Banez gave each one of Faustino and Ricaredo Alindog a stroke with the butt of his rifle. The hands were then tied behind their backs, and, together with me, were marched away by the Japanese. "At about seven o'clock of the same morning, we crossed Matab-ang brook. I was led by the leading group of Japanese, numbering about twenty, which marched about fifty meters ahead of the main body which numbered about thirty. Faustino and Ricaredo Alindog were with the main group. When the main group had just crossed the brook, I heard sudden firing in the vicinity of Katamnan, Bacolod which was about half a kilometer away. The firing, I learned later, was from guerrilla forces. I heard an order in Japanese to seek cover. All the Japanese took cover except some soldiers of the main group whom I saw were flocking around the two prisoners who were standing near each other about five meters from the bank of Matab-ang brook. I saw Lieutenant Nanjyo himself slash with his sword both Faustino and Ricaredo Alindog. Some Japanese soldiers and Banez then bayoneted Faustino and Ricaredo until they fell to the ground. I took cover at the top of a low mount and from there I rolled down to the other side. I ran home and reached Balogo at about four thirty in the afternoon of the same day. I told Romana Ballesteros right away that I had seen her husband and her son killed near Matab-ang brook. "Q Aside from Lieutenant Nanjyo, do you know anyone else of the Japanese that bayoneted to death Faustino and Ricaredo Alindog?

"A No.

"Q How many times have you seen Lieutenant Nanjyo and where?

"A I have seen Lieutenant Nanjyo many times in Boroboro, Bacolod.

"Q Do you personally know Banez?

"A Yes, I know Banez because I saw him many times in Boroboro where he was stationed.

"Q Please describe Banez for us.

"A He was about twenty five years old, about five feet and four inches tall, weighed about one hundred and twenty pounds, had a white complexion, had black hair parted, and had a military bearing.

"Q Why were Faustino and Ricaredo Alindog killed?

"A I believe they were killed because they would not tell the Japanese the whereabouts of the guerilla.

"Q Did you see if any trial was given to Faustino and Ricaredo before they were killed?

"A No, there was no trial. They were killed right away after the guerilla started shooting.

"Q Were Faustino and Ricaredo ever connected with the guerilla?

"A No, they were civilians.

"Q Was Balogo in the Japanese safety zone or in the bandit zone?

"A It was in the Japanese safety zone.

"Q Have you anything further to add to your statement at the present time?

"A None.

/s/ Leopoldo Agravante
/t/ LEOPOLDO AGRAVANTE"

MR. WARD: At this time I also wish to call the attention of the Commission to the following agreement between the defense and prosecution which was brought about due to the fact at the commencement of this trial, or just prior to the commencement of this trial, I contacted Mr. Litken and told him I wished to see the witness in this case and told him the time and place of that meeting and asked him to have someone present. At that time I went to the OCCW, the place indicated previously, and was there contacted by Captain Yard who then told me over the phone that I could not see those witnesses. There has been much discussion between the heads of the defense, that is Mr. Bonda, and the head of the prosecution, Captain Yard, in this regard as to the use of civilian witnesses and as to the use of those Japanese that are under War Crimes Charges. At that time this directive was issued and I will read it. "From Legal Section."

MR. LITKEN: May I ask the purpose of all this?

MR. WARD: I think the use will be self-evident. This will be quite pertinent and the Commission will see the whole value.

COLONEL STICKNEY: Can we be told the idea before reading it?

MR. WARD: These are the rules under which we are to operate. It shows my point of view, the difficulty under which the defense is working. The rules that are established against the defendant which

is certainly pertinent and this would never be in any SCAP rule which is issued as the rules that initially started this case, which has already been set in this previous record. This is also a rule under which we labor. There is a further reason, there has been a violation of this rule and I wish it to be brought forth and which I will do after reading this short page.

MR. AITKEN: I object to this, it is no part whatever of this case, it has nothing of probative value, if anything has been done administratively which is a hardship on the defense or prosecution the remedy is administrative. This Commission can't possibly do anything in connection with some alleged unjust administrative ruling. I don't think there is any argument about that and what that can have as to probative value as to the facts, I can't see. I don't think anybody else or the defense can either. If the defense has labored under difficulty and as the result of that has put on an unsatisfactory defense it is too bad, but what is the Commission going to do about it. It has no place in this record. I object to it.

MR. WARD: In this instance the purpose is this, it is a two-fold purpose. First, as I stated, these are rules under which we operate in trying the defendant. Both rules should be put before the reviewing board, or in any case, it all goes to show what are the rules under which the defendant is tried. That is the reason letter of 5 December 1945 is put into the record to show what rules

the defendant is being tried under, that in itself is sufficient, I believe. Furthermore, these rules as having been set down in any event have been violated and it is my purpose at this time to have the Commission take judicial knowledge, if not judicial knowledge, it is going to establish the inference. These rules have been violated. Evidence has been taken from the defendant which has been without the knowledge or consent of the defense and against the defendant's own will. If the Commission wishes me to enlighten them before I read it, that is satisfactory. Although, it would be better if I used them as a closing argument after reading this into the record.

COLONEL STICKNEY: I would like to ask first the date of the paper which you hold in your hand?

MR. WARD: The date of the paper is 2 October 1946

COLONEL STICKNEY: And the authority?

RCS

MR. WARD: The authority is Edward L. Supple, Colonel, CAC, Executive Officer, War Crimes Trials.

COLONEL STICKNEY: Is that supposedly binding on the prosecution?

MR. WARD: It is supposedly binding on the prosecution. The first paragraph will show its binding value. If the Commission will let me read it in it will be self-evident. Otherwise I have no objection to striking it.

COLONEL STICKNEY: There being no objection from other members of the Commission, the objection is not sustained and the paper will be read.

MR. WARD: From Legal Section, Manila Branch,
to War Crimes Trials. At this time it is not necessary
for the reporter to take this, she can have this copy as
well. It is dated 2 October 1946.

"GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
CHECK SHEET

"(Do not remove from attached sheet)

"File No. : Subject: Access to prosecution and Defense Witnesses

"Note No. : From: Legal Section TO: War Crimes Date: 2 October
Manila Branch Trials 1946

"1. In a telephone conversation between Mr. Yard
and Mr. Bonda on 28 September 1946 the following agreement
was reached concerning access to prosecution and defense
witnesses:

"a. Civilian witnesses. -- Prosecution
and defense will have access to one another's witnesses only
after clearance has been obtained from Chief Prosecution
Division, Legal Section, GHQ SCAP, Manila Branch, or Chief
Defense Counsel. Request for access to any witness already
called will not be made unless it is believed that the witness
can be used by the party requesting the interview. It is not
expected or intended that the privilege herein accorded either
side may be used simply for "fishing" purposes. It is intended
that if the witness' name is obtained by prosecution or de-
fense in the regular course of investigation after which it
is discovered that the witness has been called already by the
other party, then use of procedure outlined in this paragraph
may be made.

"b. Prisoners of war. -- If the prisoner of war is being held as a suspected war criminal and charges have not yet been served upon him, then he is accessible to either prosecution or defense without any clearance. If charges have been served upon any Japanese, or if draft copies of a charge have been made available to defense counsel, then the prosecution must obtain clearance from the Chief Defense Counsel to have access to such Japanese for any purpose whatsoever.

"2. This agreement is being made known to all members of this Section for immediate compliance.

- - - - - E. C. Maj, Inf., Exec O -

"(2) FROM: WAR CRIMES TRIALS, 4 October 1946 ELS:121
UNITED STATES ARMY FORCES
WESTERN PACIFIC, APO 75

TO: EACH DEFENSE ATTORNEY

"The foregoing is furnished you for your information and compliance.

"DISTRIBUTION:

"Defense Attorney
Lt. Schardt
Records Officer
Commission Presidents

EDWARD L. SUPPLE
Colonel, CAC
Executive Officer
War Crimes Trials"

"Copy for Mr. Robert L. Ward"

MR. WARD: At this time I wish to have it known that during the last recess without permission of the Chief Defense Counsel, myself, or Mr. Schauer, an order had been made by the prosecution in which the defendant, Lieutenant Nanjo, was taken by M.P.'s to the Fourth General Hospital and had his leg X-rayed. At this time I wish it to be known that we want that X-ray in court. It verifies the defense's

testimony and we wish it introduced in evidence. The prosecution has that available to them and we do not. In addition to that, we wish it to be known that these rules under which we are held accountable seem to be completely one-sided. They are completely to harass the defense, they do not seem to be binding upon the prosecution. In this instance the defendant is not hurt, in fact he is abetted because if he does not bring that evidence into this court the inference is plain that the defendant's story or testimony is a true one. Secondly, we wish it to be known that these rules are being violated as set forth by the heads of the two offices and not only was the permission which would have been granted in this case, not only has that permission not been sought nor refused, but no mention was made at all to the defense. At this time we wish the Commission to take knowledge of these facts and require the prosecution to bring this testimony before the court, due to the fact of their method of obtaining it.

COLONEL STICKNEY: I would like to ask, that paper which you have just read which is signed by Colonel Supple whose main duty seems to be in connection with the defense-----

MR. WARD: No, it is --

COLONEL STICKNEY: I am speaking now, please, will you let me continue.

MR. WARD: Certainly.

COLONEL STICKNEY: I would like to ask if that paper which you have just read, which is signed by Colonel Supple, whose main function seems to be in connection with

the defense shows whether or not a copy was furnished to the prosecution?

MR. WARD: This paper I have just now read does not on its face show that it has been served upon the prosecution. However, the body of the paper itself states that such an agreement has been made between the heads of the two offices, and that is how it was initiated. The first paragraph states it was a telephone conversation between Mr. Bonda and Captain Yard. In any event using state-side rules such procedure is entirely unknown to elicit information from the defendant by force. Remember, in this instance, the defendant had no right to say yes or no, the M.P.'s picked him up and took him out there and had an X-ray of his leg willy-nilly.

COLONEL STICKNEY: The Court will take judicial notice.

MR. AITKEN: I might say for the prosecution that the X-ray was taken through action of Colonel Supple's office. And it has been our intention and is our intention to introduce the X-ray in evidence -- it will be here in court.

MR. WARD: This action that Mr. Aitken is so stating, he states it was through the executive office. Would he stipulate that it was through the executive office? Would it be necessary for us to bring in Lieutenant Schardt?

COLONEL STICKNEY: I don't know that the initiation of the affair is involved. The contents of the paper seem to be administrative rule and after a thing has been initiated as

to the proper procedure that the executive office would like.

MR. WARD: In addition to that the fact that the defendant's rights are completely violated.

MR. AITKEN: The point is that they have not been prejudiced. He admits he has not been prejudiced, that he would like to have the X-ray because he thinks it supports his case, and we want it in because we think it will support our claim, and there has been no prejudice to anybody.

MR. WARD: Except for the fact we were not allowed to see their witnesses, but they can take the defendant out and elicit information from him against his will.

MR. AITKEN: It comes with pretty bad grace from the defense, this sort of argument here. If the Commission will remember certain evidence that was brought into court during the trial of the case wherein it was tried to be shown that, I think it was Primitiva Casabuena had recanted or changed her testimony, and then came into court and says "No, I did not because you tried to make me say that". We were not invited, the prosecution was not invited to be present at the examination by the defense of our witness. So, I think, it comes with pretty bad grace for the defense to start off on some sort of a line like this.

MR. WARD: In this instance, Mr. Aitken is stating he was told that he could not see the prosecution witness. At this time, due to that statement, we will call Captain Yard at his office who will admit the fact they called down here on the phone and told me they had finished with the defense witness and told me that I might

see those defense witnesses and that I might release them so that they could go back to Negros Island. At that time it was approximately 10:30 in the morning and it was necessary that during our lunch period after I had received that telephone message from the prosecution's office that I immediately went over to OCCW and saw those witnesses. The interpreter at that time testified there was no infraction of any sort, that each interview took approximately three minutes in which it was necessary to have a release from the defense, and if Mr. Aitken does not withdraw his statement it will be necessary to subpoena a prosecution officer.

MR. AITKEN: You can subpoena the whole city of Manila if you think it will help you. We call your attention to the fact that by ordinary courtesy, under any procedure it is required that the opposing counsel notify the other counsel that he wants to talk to that witness -- that is ordinary courtesy and it was not offered in this case.

COLONEL STICKNEY: I would like to ask both the prosecution and the defense to keep their eyes open on the big picture which is the case of the United States vs Nanjo, and I believe we have spent altogether too many minutes on a thing that is rather a trivial matter this morning. We can get off on tangents and tangents to tangents, if there were such a thing, and run on and on and get nowhere.

As to the whole thing that has come up this morning, as I see it, it can be summed up into the fact that the prosecution without having an administrative paper which was published in Colonel Supple's office, took an X-ray of the accused which pleased the defense, although the defense is not pleased at the method used.

MR. WARD: That is correct.

COLONEL STICKNEY: I can see where no harm is done the accused and it seems to me that more than enough has been spread into the record for future cases that we maybe looking forward to.

MR. WARD: That is correct. At this time we call former Lieutenant Akira Oyama.

AKIRA OYAMA

a witness for the defense, being first duly sworn, testified as follows through Interpreters Nishihara and Saito:

MR. WARD: Just prior to starting the direct examination on this witness, the defense at this time wishes to introduce Defense's Exhibit C and have it refer back to Specification No. 1. This is the map that was drawn by Major Fritz in response to the questioning by said major of Cesar Lamio.

COLONEL STICKNEY: Any objection?

MR. WARD: No objection, it is part of the testimony of Lamio.

COLONEL STICKNEY: You have thirteen copies, do you?

MR. WARD: Thirteen copies.

MR. AITKEN: Is there one for the prosecution?

(Mr. Ward handed the prosecution a copy of Defense Exhibit C.)

COLONEL STICKNEY: There being no objection, the map is received in evidence to be marked Defense's Exhibit C.

(Defense Exhibit C received
in evidence)

DIRECT EXAMINATION

BY MR. WARD:

Q Your name?

A Akira Oyama.

Q Your age?

A Twenty-seven.

Q Your present address?

A "64 Aza-Hinata; Oaza-Komatsu; Yashiro-Mura; Nishi-Shirakawa-Gun; Fukushima Prefecture.

Q Which island?

A On the island of Honshu.

Q And your present occupation?

A I am an instructor at a school.

COLONEL STICKNEY: Did he say he was an interpreter?

MR. WARD: Instructor at a school.

Q What school would this be?

A Primary school.

Q You were formerly a second lieutenant in the Japanese Imperial Army?

A Yes.

Q And prior to the month of February, 1945, you were stationed in Leyte, is that correct?

A Yes.

Q Calling your attention now to the month of February, the early part of that month, 1945, did you have occasion to go to Negros Island?

A Yes.

Q Can you tell us how that occurred?

A At that time on Leyte the army group was transferring positions. Therefore, I boarded a battered navy ship and followed the army group. However, the ship was washed ashore on Negros. This ship had no sails or anything of that nature.

Q At that time what was your physical condition?

A I had a wound on my right hand.

Q After landing on Negros Island, where did you go?

A ✓ To the Yamaguchi Unit of the Kono Brigade.

Q How were you related to that unit?

A The condition at that time was such that any men such as myself who were washed ashore or came from other islands were gathered there and attached to the Yamaguchi Unit.

Q At that time you received treatment for your hand?

A I had not received any as yet, and the first time I received treatment for it was after I had reached the Yamaguchi Unit.

Q Was that in Bacolod City?

MR. AITKEN: I suggest to counsel: Don't lead the witness. Please ask him what city it was, instead of telling him.

Q What city was it?

A ✓ It was a place called Lourdes.

Q From whom did you receive treatment for your hands?

A From an army doctor.

Q During what period were you under the jurisdiction of that army doctor?

A I received treatment for it from the army doctor from the early part of February until about the middle of March. About that time my wounds had improved.

Q Did you have any active duty on Negros Island during that period?

A I had no duty.

Q Calling your attention to the defendant, Lieutenant Nanjo, do you know or recognize him?

A I first knew him after I had reached Lourdes. I am

not sure, but I believe the date was about the 20th of March.

Q What makes you state it was about the 20th of March?

A I remember that the landing of the American forces on Negros was towards the end of March and I also remember that I met Nanjo not less than a week prior to that.

Q How long have you been in Manila?

A You mean after I have come this time?

Q That is right.

MR. AITKEN: We will stipulate that he got in here yesterday morning, if you like.

MR. WARD: Satisfactory.

MR. AITKEN: I think that is a fact, isn't it?

MR. WARD: Yes.

Q Where was Lieutenant Nanjo when you saw him on or about 20 March?

MR. AITKEN: That is objected to as already asked and answered. He said he met him at Lourdes.

MR. WARD: Where in Lourdes?

MR. AITKEN: Ask him where in Lourdes. I will withdraw the objection, if you put it that way.

Q Where in Lourdes did you see Lieutenant Nanjo on or about the 20th of March?

✓ A This was a place approximately one kilometer from Bacolod, and it was in a palm grove. That was where the headquarters of the Yamaguchi Unit was located.

Q What was Lieutenant Nanjo's physical condition at that time?

X A I believe it was his right leg which was wounded.

Q You say you believe it was his right leg that was

wounded. What led you to believe that?

A I can't state any particular reason, but I believe he had a limp on his right leg.

Q Was he using any physical means of support?

A Yes. He was using a cane. I also saw the wound at that time.

Q Where was that wound?

A (Indicating with finger on leg.) I believe it was a spot about ten centimeters below his kneecap, and I also heard that a bone there was also injured. There was also a hole about the size of my thumb beside the bone there and I believe it entered from the side.

Q How long did you stay in Lourdes?

A I was there all the time, because I was receiving treatment for the wound on my hand.

Q How long did you remain at Lourdes, how many days, after the 20th of March?

A Until the time of the landing of the American forces. I believe that was at the end of March.

Q During that period from on or about the 20th of March until the Americans landed near the end of March, did you have occasion to see Lieutenant Nanjo very often?

A We were both patients and we were living in the same nipa hut, approximately a week or so.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the same oath?

(Interpreter Saito translated to the witness.)

Q During this period of on or about 20 March until the American invasion you state that you were living in the same Nipa hut with Lieutenant Nanjo, is that correct?

A Yes.

Q During that period do you know whether or not Lieutenant Nanjo had any active duty?

A No, he was not since he had a bad leg.

Q To your best knowledge how badly was the walking ability of Lieutenant Nanjo impaired?

A (Witness illustrates) About that pace.

Q And will the interpreter please describe that pace?

INTERPRETER SAITO: Shall I ask him again?

MR. WARD: No, just describe what he was doing.

INTERPRETER SAITO: Do you want my own description?

MR. WARD: Your own description, yes.

MR. AITKEN: That should come from the Commission or the defense.

COLONEL STICKNEY: I don't believe that belongs in the interpreter's duties.

MR. WARD: All right then, it will be satisfactory if the Commission does it, or Mr. Aitken can if he will, I will so stipulate.

MR. AITKEN: It is indicated that Nanjo walked with a limp in the right leg.

MR. WARD: And very haltingly.

MR. AITKEN: Well that is comparatively of little value.

Q On or about the time of the American invasion where did you then go?

A I left Lourdes with the patients and headed for Granada.

Q Can you place this time now as to the beginning or --

MR. AITKEN: Just a moment, I notice that the witness is consulting a memorandum of some sort, I would like to see what it is.

(Witness hands paper to Mr. Aitken.)

MR. WARD: May I see it too?

MR. AITKEN: I would like to ask this witness -- you consulted a memorandum just now?

MR. WARD: I object now to any questions, he has a right to cross-examination.

MR. AITKEN: The witness has no right to use a memorandum unless it is shown it was made under the proper circumstances, made at the time, the place and under circumstances which would indicate it had not been furnished him for his use. He can't read testimony in court here.

MR. WARD: At this time I only want the best memory of the witness, and I will instruct him to replace that paper and not refer to it.

COLONEL STICKNEY: Let's take it away from him, and not let him use it.

MR. WARD: All right, I will take it away.

Q Are you familiar with the general locations in this part of Negros Island to which you are now testifying?

A I am not so familiar with the places in Negros since I had not been there long.

Q Then as to your best memory of the events that occurred, will you please state approximately how long after the American landing or bombardment did you leave Lourdes, if you know?

A I am not so very clear of that, but it was about one o'clock in the afternoon immediately after there was a naval shelling of the place.

Q What was ~~your~~ physical condition at that time?

A During that shelling I injured my head. I was treated and then proceeded ahead.

Q How was your head injured?

MR. AITKEN: That is objected to as immaterial, what difference does it make that happened to this witness?

MR. WARD: It makes material difference. He states his head was injured. At this time his testimony is based as a relevant fact to this injury. If the injury affected his head in such a state that his memory might be impaired to some degree it would certainly be a fact for the Commission.

MR. AITKEN: We will stipulate that his head was injured, and that he has not recovered yet, and that his memory isn't any good.

MR. WARD: I would like to have the testimony and not stipulate to that.

MR. AITKEN: Counsel is trying to impeach the testimony of his own witness here.

MR. WARD: I am merely bringing out what occurred at that time. There is no impeachment whatever, I am merely stating what happened. He states his head was injured. I want to know how it happened and if such seriousness can be related to whether or not his recollection of further facts would be clear, hazy, or in what connection that would be. It is a material fact for the Commission to know what occurred.

COLONEL STICKNEY: Of course, you know the answer you are going to get, and we will assume that you are proceeding along proper lines.

MR. WARD: Certainly.

COLONEL STICKNEY: The objection is not sustained.

Q What type of injury occurred to your head, and what was its effect upon you?

A During the naval shelling we were skirmished near a bamboo grove. A shell fell immediately in front of me and exploded. I sustained an injury on my head at that time and fell unconscious for about ten minutes. I immediately went to the nearby dispensary for treatment after reviving. As a result of this wound my memory is not so very clear concerning the incident during the shelling.

MR. WARD: Will you please read back the first part of that?

(The reporter read the answer.)

MR. WARD: Is that the word he used -- "skirmished" near a bamboo grove?

INTERPRETER NITTA: Evacuated.

A We evacuated to the bamboo forest and dispersed.

Q You state that your memory is not so good. Do you mean as to the facts that occurred prior to your injury, or subsequent thereto?

A I am not clear as to the circumstances surrounding my injury from the shelling.

Q What occurred after you went to the dispensary to have your head treated?

MR. AITKEN: I still object to the whole line of questioning, this one in particular, on the ground that it is absolutely immaterial in this case.

MR. WARD: This is leading right up to what they were doing. He went to the dispensary, he had his head treated, a minute ago he stated, and shortly after this they evacuated Lourdes. This is a preliminary question to the evacuation -- how they went and where they went.

COLONEL STICKNEY: I would like to ask, is it correct to assume his memory is now good on the things on which you are going to ask him?

MR. WARD: The subsequent questions will bring it out. That is one of the purposes of the questioning.

COLONEL STICKNEY: Are you satisfied with the answer a minute ago as to the nature of his poor memory?

MR. WARD: Around the period of the --

COLONEL STICKNEY: Around the time you are going to ask the question now.

MR. WARD: That is correct. I believe he stated in his answer -- I don't remember whether --

COLONEL STICKNEY: As far as you know his memory is again good?

MR. WARD: Yes.

COLONEL STICKNEY: The objection is not sustained.

A I was treated at the dispensary for the injury by an Army doctor. Immediately after the treatment the patients of the battalion headquarters and some soldiers, numbering about ten, proceeded in the direction of Granada.

Q Was Lieutenant Nanjo with this group?

A No.

Q About what time of day was it?

MR. AITKEN: I will mention the fact it was already asked and answered.

One o'clock.

MR. WARD: I withdraw the question. I didn't hear the answer. Is the answer one o'clock?

INTERPRETER NITTA: No. "I cannot recall very clearly, but I think it was about two or three o'clock in the afternoon."

Q Upon reaching Granada, where did you then go?

A When our group reached Granada I saw Nanjo there.

Fifteen or sixteen **patients** under the command of Lieutenant Nanjo then proceeded to the position in the mountain.

Q Did you accompany that group?

A Yes.

Q About what time of day was that?

A I am not very clear, but I believe it was late in the afternoon -- about seven o'clock.

Q And you then went toward the mountains -- is that correct?

A Yes.

Q About how long did you continue walking until you reached the mountains?

A I believe we proceeded to the position about seven o'clock that evening and reached the positions in the mountain just before dawn.

Q What mode of transportation did you use: walking, truck -- what?

A We all walked.

Q You say the position in the mountains. What position do you mean?

A I cannot recall the name of the mountain.

Q Did you meet any other Japanese troops at that place? At the position in the mountains?

A After we reached the position we saw Japanese troops.

Q Was Lieutenant Nanjo with you then?

A Yes.

Q Where did you then go?

A I went to the headquarters dispensary because I was wounded and because I had no special duties.

Q Did Lieutenant Nanjo go there with you?

MR. AITKEN: I object to that as leading this witness, telling him the answer.

MR. WARD: In this instance the answer is going to be in the negative. I want to show what happened. It is not indicating at all, as counsel states.

MR. AITKEN: The objection stands.

COLONEL STICKNEY: Objection sustained.

Q While you went to the hospital, where was Lieutenant Nanjo?

A I separated from Nanjo when we reached the position. I went to the dispensary and Nanjo went to the Takahashi unit.

Q After this time in which you went to have your head treated behind this position, did you have occasion again to see Lieutenant Nanjo?

A I did not see him after that.

MR. WARD: You may cross-examine.

CROSS-EXAMINATION

BY MR. AITKEN:

Q While you were being examined on the stand here, you had occasion to refer to a memorandum. Where did you get that?

MR. WARD: Objection. He started to refresh his memory with this memorandum. We took it away from him. Therefore, it is not a proper topic for cross-examination. It is entirely immaterial. He didn't use it.

COLONEL STICKNEY: Objection not sustained.

(At this point Mr. Aitken attempted to secure a paper from Mr. Ward.)

MR. WARD: These are part of the defense files.

MR. AITKEN: It was taken from the witness.

I will ask the Commission's ruling. That was taken from the witness and is not a part of the defense files.

A On a piece of paper I got on the plane I put down some of my recollection concerning the Nanjo incident, after I had been told by the defense counsel that I was going to be a witness in the Nanjo case.

Q You did this on the plane?

MR. WARD: Objection again. It is immaterial. He states he did it.

COLONEL STICKNEY: Objection not sustained.

A No, after I came here.

Q Who handed you the piece of paper to make a memorandum on?

MR. WARD: Objection again as asked and answered. He said he got it on the plane.

COLONEL STICKNEY: Objection not sustained.

A I had the paper on my person when I boarded the plane. I got it at the Haneda airport before I boarded the plane.

Q That is the airport at Tokyo, is it not?

A That is the airport where I boarded the plane. That is near Tokyo.

Q Whose handwriting is it that is on the memorandum?

A Mine.

Q All of it?

A I put some down after I had talked with Nanjo.

Q Where did you talk with Nanjo?

✓ A With the permission of the defense counsel I was permitted to see Nanjo in the stockade.

Q When?

A Yesterday morning.

Q And during this conference with him, you made notations on that memorandum, did you?

MR. WARD: Objection again. That is not the testimony. He said he made it after --

MR. AITKEN: It is a question I am asking him.

MR. WARD: It has been asked and answered.

MR. AITKEN: Cross-examining.

MR. WARD: Asked and answered. He testified a minute ago when he put the markings on the piece of paper -- some before and some after.

COLONEL STICKNEY: The objection is not sustained.

✓ A I put some notations down while I was talking with Nanjo.

MR. AITKEN: Now I will ask that the memorandum be required to be produced, so that I can cross-examine on it and call attention to the fact that it is not a personal defense file but it is a piece of paper that this witness himself got at an airport and on which he made himself, so he says, certain notations.

MR. WARD: At this time we wish to remind counsel for the prosecution that rules must work one way as well as the other. We demanded awhile back a piece of paper that the prosecution had in which the witness had refreshed his memory. At that time we were refused. I will be quite willing to give counsel this piece of paper on which there are a few scribbles -- I don't know what they are --

if he will give me the affidavit that I demanded at that time, as for Cesar Lamio. The purpose of my holding out is not the fact that I don't wish this to be before the Commission -- I don't know what it is myself -- but the fact that these rules must work both ways. If he gets this piece of paper from the defense, we get that affidavit that we identified thoroughly. That is fair enough on either side.

MR. AITKEN: The cases are not comparable at all. Those are private files of the prosecution that he is talking about. That is a piece of paper the witness started to use on the witness stand, which is his and not the defense's. And it only happens he happens to have custody of it because we turned it over to him instead of handing it over to the Commission.

MR. WARD: Certainly. He is a defense witness.

COLONEL STICKNEY: The prosecutor has had a glance at this paper and I see no reason why he should not have another glance.

MR. WARD: He is going to cross-examine on that piece of paper. That is all right. We don't exactly care whether or not he cross-examines on this piece of paper. We are fighting over the fact that these rules have to be made two ways. We identified thoroughly a piece of paper that prosecution had used to refresh the memory of his witness. If you demand that we turn this paper over, we have a similar right to that paper -- he having identified this piece of paper and we identified the other. The rule is applicable in both respects. The piece of paper is valueless here.

MR. AITKEN: If the Commission please, if we ever put a witness on the stand with a piece of paper in his hand for the purpose of refreshing his memory as a witness, I will be the last one in the world to say the defense counsel or the judge or court or commission did not have the right to see that paper, because they have that right. He has no right to testify from a memorandum unless that memorandum is produced under certain circumstances which are well known legally. The mere fact that a memorandum made months ago and that was stacked away in somebody's file isn't that piece of paper which is being used for refreshment of memory, and this is. I never heard such an argument in all my life on the question of refreshment of memory that defense counsel is putting up.

MR. WARD: In the last instance we determined for a period of time merely. In this instance the witness did not use it to refresh his memory. The witness took it in his hand, Mr. Aitken saw it and I immediately pulled it away. He did not testify from this piece of paper. The cases are comparable, except as to degree of time; therefore, the same rule is applicable. And as I state again it is merely the technicality: we will gladly let him cross-examine as to this piece of paper, but we want it to be fair and we want that other piece of paper to use as impeaching evidence against his man.

✓ COLONEL STICKNEY: For your information, Mr. Ward, the witness used this piece of paper in the chair not once, but at least twice, to my knowledge. Do you have any case where a defense witness used a piece of paper while sitting in the witness chair?

MR. WARD: No, but the rules are comparable.

It is refreshment of memory with the notes.

COLONEL STICKNEY: The papers are not comparable.

MR. WARD: If the Commission wishes to rule that way, that is satisfactory. It is the argument of the defense that these rules should be meted out equally.

COLONEL STICKNEY: If there is no objection by the members of the Commission, it is so ruled and the prosecutor will have another look at the paper.

(Mr. Aitken receives paper from Mr. Ward.)

Q On this piece of paper you were using and which you say you drew up before and after conference with Nanjo, there appear circles, dots. Do these indicate places?

MR. WARD: Objection. If the counsel is going to cross-examine as to the piece of paper, he must make his direct statement and use it for impeachment. He may not use it to elicit further indications of a bunch of circles, etc. The correct way of cross-examining as to a piece of paper would be that thus and so on this piece of paper so states a certain fact, and you read that out, or you say: "This is the place called Granada. Did you not proceed from Granada?" But to say, "You made a bunch of circles; now explain it," that has nothing to do with his prior testimony.

MR. AITKEN: The question is merely a preliminary one, because I am going to ask him who told him it was that place he put on there.

MR. WARD: Then he may make the question direct. "Did you make this circle at your request or did Nanjo do it"?

But the questions have to be made as impeaching questions when using this piece of paper.

MR. AITKEN: Every detail with reference to this we are entitled to bring it out in our own way, so long as we keep within the rules of the case and not depart and wander all over the country.

MR. WARD: That is correct. You have to make close, accurate and impeachment questions. He has to impeach by it and not say "explain." He is using this piece of paper to impeach.

COLONEL STICKNEY: What is your objection?

MR. WARD: His question is improper. It is not an impeaching question. He is saying "explain."

COLONEL STICKNEY: Is your question for the purpose of impeachment?

MR. AITKEN: No. It has nothing to do with impeaching. The only thing that impeaches this witness' testimony is the answer he gives to me. In other words, if he contradicts himself, he impeaches himself. The technical method of certain kinds of impeachment is a technical method of procedure. This has to do with the fact that this is just a memorandum which he has tried to use and has used and from which we are entitled to show that what he put on that was put on after his consultation, not from his memory of what occurred a year and a half or so ago, but what he was told when he was brought here as a witness. And I want to elicit that information, so as to show that his testimony that has to do with any of these places and differences, and so forth, is absolutely valueless. That is impeachment, but not

impeachment in the sense that I am going to introduce some other paper or some other evidence to show that he is all wrong. I am simply going to show that his testimony was made from a memorandum which he didn't prepare himself under the proper legal circumstances.

MR. WARD: Proper legal circumstances, of course, are a point we will not argue. Counsel uses the paper for one purpose, the only reason he has a right to, and that is for one purpose. That is for impeachment. That is the only reason he has a right to that paper, under the ruling of the Commission. He is not entitled to it, as a matter of fact. However, secondly, stating that he does use that piece of paper, he is limited to those portions in that paper from which this witness testified. We have used pieces of paper or affidavits to impeach his witnesses. You will notice there was no objection at that time because we did it correctly. We laid a foundation and we made direct questions on cross-examination. Impeach the man, then use the affidavit to back it up. That was done right. This time counsel either must use that paper for impeachment or, secondly, limit his questions as to the testimony of the witness in the particular parts of that piece of paper he used. And, as mentioned, in court I only saw the witness use it once. The Commission says twice. I do not recall that, but in any event he is limited to that time and that part of the paper.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is still under oath?

(Interpreter Saito translated to the witness.)

COLONEL STICKNEY: The objection of the defense is not sustained.

Q On this piece of paper that you used as a memorandum you have certain lines drawn between circles or dots which indicate kilometer distance, for instance, I will show you this one says six kilometers -- who told you that was six kilometers between these places?

MR. WARD: Objection at this time, counsel. Counsel must ask first the preliminary question, what part of this did you look at to testify. This is a different objection than the last one. He has to limit his cross-examination of impeachment as to the parts of the diagram that were used to testify from. Otherwise, the witness was testifying completely as of his own memory as to those two views of the diagram he had. He must have used it in relation to some question or in the answer to some question to be pertinent here. Therefore, counsel cannot impeach as to the whole, he must impeach as to the specific part so testified to and he must relate it to the testimony previously given by this witness. In other words, unless this witness testified it was six kilometers or seven kilometers, I will say, and he is now saying on this page of the paper it is six. Now, who told you to write down six, there has been some purpose of impeachment. This witness never testified it was six kilometers one way

or the other. He testified he went to Granada, he never used that piece of paper as a diagram. Therefore, if counsel relates his testimony on the parts used he may certainly impeach him with it, but there is nothing impeaching here if he never testified on direct examination.

MR. AITKEN: The entire purpose of the questioning of this witness with reference to the memorandum that he admits he prepared on consultation with the defendant, before and after consultation and during consultation with the defendant, is to show he came into court here to testify with coached testimony, and I don't care whether it refers to any particular piece or not, but the fact when he admits that he conferred with the defendant, that he drew up a piece of paper and used it for a memorandum, and it is ridiculous to talk about looking at any particular piece of it because all you have to do is look at it and you can see it all, unless you are blind, and the purpose is to show he came into court here not as a free, honest witness but as a witness who came in here with coached testimony.

MR. WARD: A free, honest witness?

MR. AITKEN: Right.

MR. WARD: Counsel again is testifying and using degrading terms as to this witness. We have not used this diagram nor used the testimony thereon. They were not going from place to place, we merely said from Lourdes to where he was and to Granada and from Granada to the mountains. This testimony has not been in the record, therefore it has not been used to coach. Certainly we will stipulate he was present and I took this witness to

see Lieutenant Nanjo, they talked for about fifteen or twenty minutes. I wasn't even in on that conference, I will stipulate to that, but we have not used the directions and distances, etc. on that diagram as testimony here.

MR. AITKEN: Will you stipulate also that you and this witness and Lieutenant Nanjo had a conference with reference to his testimony and that he prepared this memorandum which had distances and lines and directions on it at the time.

MR. WARD: I will not. In this instance I talked with this witness in this courtroom for about a half hour and I took down notes myself from which he has testified. I merely took them over to the stockade to have a conference. I know nothing of this piece of paper because I was reading a book at the time. Therefore, the testimony he has given in court is not to times, I don't know whether he was covering a trip or not. The witness states himself they conferred the last instance when they saw Lieutenant Nanjo. That is in the record. But the testimony given in court this morning does not go over any paths. It was merely as to general features. Therefore, any testimony as to six kilometers could not be impeaching. It was not in direct examination. This is far improper cross-examination because it is not a cross-examination as to a piece of paper because there is nothing in the direct examination. He can't impeach him with anything we have given. Correct impeaching evidence here in court the Commission knows how it is supposed to be done. This is incorrect.

MR. AITKEN: Well, the only reply is that I am sorry the book you say you were reading was not a book on evidence with reference to impeachment.

MR. WARD: All right. Will counsel state what he is impeaching -- what statement the witness made he is trying to impeach. I am willing if he can make that statement, my objection will be withdrawn.

MR. AITKEN: I have already stated that this witness came in here not as a free, honest agent but came in here with coached testimony --

COLONEL STICKNEY: Let it appear at this time that the prosecution and defense counsel were talking at the same time and it was impossible for the reporter to take down the testimony, and the objection of the defense is not sustained.

MR. AITKEN: May I have the question, please?

(Question read by reporter.)

A Since I was not very clear on the path to the positions, I asked Nanjo and consequently put it down.

Q Now, referring still to the line that had the six kilometers marked on it, one is a circle and the other is a filled in circle, what does the circle represent?

MR. WARD: The defense is going to object to each and every question that is not proper. That is both immaterial, it is improper cross-examination, there is no background for it, which will be the objection to each question the counsel does not lay foundation for. If he can show it is impeaching, we will withdraw the objection.

COLONEL STICKNEY: You will state it each time?

MR. WARD: I will state it each time counsel asks the question that is entirely improper and irregular.

COLONEL STICKNEY: Any reply?

MR. AITKEN: No, same theory of examination as I have already stated. I want to show that everything on this was put on as the result of the coaching by somebody.

MR. WARD: And what defense -- excuse me.

MR. AITKEN: -- prior to this witness appearing in court.

MR. WARD: We have admitted a conference, that they talked to each other, but nothing has been testified in court that would relate to these questions. The Commission remembers what the direct examination was. There is nothing impeaching, that is what makes it improper.

COLONEL STICKNEY: The objection is not sustained.

A Those circles denote a place.

Q What place?

MR. WARD: Objection again, immaterial, improper cross-examination, not impeaching.

COLONEL STICKNEY: Any reply?

MR. AITKEN: Same reply.

COLONEL STICKNEY: Objection not sustained.

A Those circles are for places such as Concepcion, Granada, etc.

Q Yes, but the circle I pointed out to you is Concepcion or Granada?

MR. WARD: Objection again, immaterial, improper cross-examination, no foundation laid for impeachment, and improper impeachment.

MR. AITKEN: Same reply.

COLONEL STICKNEY: Objection is not sustained.

A That is Granada.

Q Now, the filled in circle at the end of the line marked six kilometers is to indicate what place?

MR. WARD: Objection again, immaterial, improper cross-examination, no foundation laid and improper impeachment.

MR. AITKEN: Same reply.

COLONEL STICKNEY: Objection is not sustained.

A That is Concepcion.

Q Now, I will point out to the east here at the end of the line that is marked eight to nine kilometers, and ask you whether that is supposed to indicate the positions in the mountains?

MR. WARD: Same four objections.

MR. AITKEN: And the same reply.

COLONEL STICKNEY: Objection is not sustained.

A That is correct. That indicates the mountain positions from San Fernando, eight to nine kilometers distance.

Q Now, all of this was prepared, as you say, with Nanjo present assisting you?

A Those were put in while I was talking with Nanjo.

MR. AITKEN: I would like to have this marked for identification so that I can offer it as part of the witness' testimony.

MR. WARD: Objected to. It is completely immaterial. There is nothing impeaching in this evidence whatsoever. There is nothing shown that was in conflict with any former testimony. The same four objections I have formerly made apply to this at this time. We still consider it part of the defense files. The same reason, of course,

being that if we wish, if there is going to be any type of ruling, that we want it to be reciprocal. If the prosecution gets this, they have been allowed to cross-examination on it, it is completely immaterial, not proper foundation, improper cross-examination. We wish the right to have also Cesar Lario's affidavit.

COLONEL STICKNEY: Doesn't it seem strange that the paper made out by the defense when reading a book that it becomes part of the file?

MR. WARD: There is nothing material about this piece of paper, there has been no testimony on direct examination regarding it.

COLONEL STICKNEY: I understand that the prosecution is not asking to introduce the paper as evidence, but wants it marked for purposes of identification.

MR. AITKEN: My purpose, of course, is this, that when you have in the record a piece of paper and it says this and this and this, and so on, the record is incomplete when a witness' testimony is verbal, completely oral, and is put down in the record. Oral testimony is complete enough for the purposes of the record, but when he is referring to a piece of paper it is something that is not in the record, and the only way you can get it is as part of the witness' testimony.

COLONEL STICKNEY: You do not intend to use the piece of paper as a prosecution exhibit?

MR. AITKEN: At this time it is not proper for me to offer evidence because it is the defense offering evidence. I would like to have it marked for identification and then offer it as part of the witness' testimony.

COLONEL STICKNEY: How do you mark it?

MR. AITKEN: It would have to be marked probably as Prosecution's Exhibit.

COLONEL STICKNEY: What are you going to mark it, Prosecution's Exhibit 7, 6, or 5?

MR. AITKEN: Six, I think, is the next number.

MR. WARD: He has all factors now to put in evidence and it is going to be objected to. But we object completely to it unless counsel can show the materiality of it. It is completely immaterial as to the fact that they talked to each other, and it is not related at all to the testimony. In other words, as to what was given on direct examination.

MR. AITKEN: I don't know whether the authority that reviews the record there has anything in front of them or nothing but the cold picture.

COLONEL STICKNEY: They have the same picture as the members of the Commission have.

MR. AITKEN: And the members of the Commission haven't a full picture yet without having seen this.

COLONEL STICKNEY: You may use this and mark it whatever you wish to.

MR. AITKEN: Prosecution's Exhibit 7.

MR. WARD: Objected to by the defense as it is immaterial. Secondly, there was no foundation for the questions asked thereon.

MR. AITKEN: It should be No. 6.

MR. WARD: That was improper cross-examination and improper impeaching questions, and we will willingly withdraw the objection if counsel can meet those objections and show the materiality of it. In fact, if counsel can

show the materiality of it, we will withdraw it at any time.

COLONEL STICKNEY: Let's get on with the cross-examination of this witness.

MR. WARD: There is an objection before the court.

COLONEL STICKNEY: State your objection.

MR. WARD: Objection to this being offered as an exhibit.

COLONEL STICKNEY: It has not been offered in evidence.

Q Now, at the same time when you talked to Mr. Nanjo, did he show you the wound on his leg?

A Nothing was said concerning the leg.

Q When you talked to him first, then, at Lourdes, he showed you the leg, did he?

A Yes, at that time I saw him every day.

Q And did he tell you at the time that he was shot and that the bullet hit the right side of his leg?

A The condition on how he got the wound was not explained but just that he had received the wound in the leg.

Q Did he tell you whether it was a gunshot wound or a rifle wound or pistol wound or saber wound, or what?

A He did not say just what was the type of weapon used, but from my observation I believe it was by a rifle.

Q And at no time from the time you first saw that wound until you last saw him did he ever tell you how he got the wound, is that correct?

A No. Only except that he has received it during an expedition.

MR. AITKEN: He received it during an expedition. That is all.

COLONEL STICKNEY: Redirect examination?

MR. WARD: No further redirect examination.

COLONEL STICKNEY: Questions by the Commission.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Did he tell you where the expedition was?

A No, I did not hear that.

Q This place of Lourdes that you went to when you were washed ashore, what is that? Is that a barrie?

MR. WARD: Objection at this time. The witness did not testify when he was washed ashore he went to Lourdes. He testified he was hospitalized at Lourdes. If the Commission will reframe its question there will be no objection by the defense.

COLONEL STICKNEY: He must have gone there if he was hospitalized. I will withdraw my question.

Q This place, Lourdes, where you were hospitalized when

you were washed ashore, what sort of place is that? Is that a barrio, or what?

A It is a village located out one mile from Bacolod and it is situated in a coconut grove and near a river.

Q And while you were there what troops were at Lourdes?

A Just the headquarters of the Yamaguchi Unit.

Q Was a hospital there?

A No, there was no hospital, but just a dispensary.

Q You spoke of it as being one kilometer from Bacolod. Do you mean one kilometer from the market place?

MR. AITKEN: The record, I think, states a mile.

COLONEL STICKNEY: A mile?

MR. AITKEN: I think his answer said a mile. I am sure the interpreter said a mile.

INTERPRETER SAITO: My mistake, sir. That was a kilometer, because the witness does not use "mile."

(The reporter read the question.)

A I make my estimation from the entrance of Bacolod.

Q Did you say that Lourdes is about halfway from Bacolod to Granada?

A No, it is much closer to Bacolod than to Granada.

Q Could you say how far it is from the Bacolod market place?

MR. WARD: Objection again as asked and answered. He stated the only distance he knew is the one he specified in a previous answer.

COLONEL STICKNEY: I don't think that is quite what he said. The objection is not sustained.

A I cannot give you such detailed explanation, because I

do not know of such, as I have just arrived there and I went to Lourdes immediately. I do not know exactly where the market is at Bacolod City.

Q You and Nanjo walked, leaving Granada at about seven p. m. and arriving at the place in the mountains at dawn, is that correct?

A That is correct.

Q Will you come out here and illustrate the manner in which Nanjo walked on that occasion?

(The witness stands and demonstrates.)

MR. AITKEN: Can we have the description of that in the record.

MR. WARD: Certainly.

COLONEL STICKNEY: We have some words, do we?

A I estimate that that is the pace that Nanjo took and it also my assumption that it was his right leg that was wounded.

MR. AITKEN: Now, the witness indicated a halting step, where he advanced with his left foot and brought the right up to the left, without passing it -- this way (demonstrating).

MR. WARD: In fairly rapid succession.

MR. AITKEN: Instead of crossing.

MR. WARD: That is correct. In fairly rapid succession. Is that satisfactory to the Commission? It was in answer to the Commission's questions he did that. If so, we will have the man illustrate again.

INTERPRETER NITTA: He would like to demonstrate again how he walked. He was not satisfied with the way the

prosecutor walked.

COLONEL STICKNEY: He is not satisfied with what?

INTERPRETER TUTTA: With the manner in which the prosecutor walked.

COLONEL STICKNEY: The manner in which the prosecutor walked is not in the record. We have in the record the description by the prosecutor in words of the way in which the witness walked. Does he wish to walk differently from the way he walked a minute ago?

A (Witness again demonstrates) Yes. I would like to make a correction on my previous demonstration. Nanjo had walked with his right leg up almost parallel to his left leg when he takes a step with his right leg, and his manner of walking seems to be very much under a strain.

Q This description you give, is that the way in which he left Granada at seven p. m. or is that the way in which he arrived in the mountains at 6 a.m.?

A It was at the time when he departed.

Q And was it the same at dawn the next morning when he arrived in the mountains, or different?

A I believe he was straining himself very severely, because his pace slackened as we proceeded to the positions.

Q Was he able to keep up with you on that overnight walk?

A Nanjo was the forward end of the party. I was in the middle. The party proceeded in that manner up to the destination.

Q Did you go through Concepcion?

A Yes.

BY COLONEL MacKINTOSH:

Q On this journey through the mountains were there any Filipinos in the party?

A No, there weren't any Filipinos.

BY COLONEL STICKNEY:

Q You followed the main Granada-Concepcion road, is that correct?

A Yes, that is correct.

COLONEL STICKNEY: No further questions by the Commission.

MR. WARD: No further questions by the defense.

MR. AITKEN: No further.

COLONEL STICKNEY: The witness is excused.

(Witness excused)

MR. WARD: At this time does the Commission wish to start with the next witness? It is going to be the defendant and it is approximately 11:20 now.

COLONEL STICKNEY: Proceed. I would like to ask if the defendant understands that he does not need to take the stand unless he wants to, and if he does take the stand he will be cross-examined.

MR. WARD: He understands that and if the Commission wishes to inform him again or at this time it is perfectly satisfactory with the defense.

COLONEL STICKNEY: I think perhaps you had better tell him that.

(Interpreter Saito translated to the defendant.)

MASAO NANJO: I will take the stand.

COLONEL STICKNEY: He understands what I just said, does he?

MASAO NANJO: Yes, I understand.

MASAO NANJO *accused*

a witness for the defense, being first duly sworn, was examined and testified as follows through Interpreters Saito and Nitta:

DIRECT EXAMINATION

BY MR. WARD:

Q Your name?

A Masao Nanjo.

Q Your age.

A Twenty-seven years old.

Q Your home address or residence?

A Aza-Kizunetsuka; Tominaga Mura; Toda Gun; Miyagi Prefecture.

Q That is on Honshu Island, is it not?

A Yes.

Q It is about 400 kilometers north of Tokyo, would that be correct?

A Yes.

Q Where did you go to school?

A The Morioka Agricultural and Forestry School.

Q Would that be a high school or college?

A It is a college.

Q Previous to that time you had gone to a primary school and agricultural high school, is that correct?

A That is correct.

Q Did you graduate from that college, the Morioka Agricultural and Forestry College?

A Yes.

Q This college is also on the north of Honshu Island,
is that correct?

A That is correct.

Q After graduating from college where did you then go?

A I practiced farming at home.

Q On or about March, 1942, did you then enlist in the
army?

A Yes.

COLONEL STICKNEY: The Commission will adjourn
and reconvene at 1300 hours.

(The Commission adjourned at 1130 hours to reconvene
at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all members of the Commission, Mr. Ward for the defendant, the defendant and his personal interpreter, the interpreters and the reporter are all present in court. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

MASAO NANJO

a witness in his own behalf, having been previously duly sworn, testified further as follows through Interpreters Saito and Nitta:

DIRECT EXAMINATION (Cont'd.)

BY MR. WARD:

Q At this time do you have any family living?

A Yes.

Q Who are they?

A My parents and five brothers and sisters.

Q Are they all in the northern part of Honshu Island, is that correct?

A Yes.

Q Are you married?

A No.

Q Immediately prior to enlisting in the army in 1942 you stated you were home working on the farm, is that correct?

A That is correct.

Q After enlisting in the army where did you then go?

A I enlisted in the 129th Infantry Regiment in Fukushima. Then I was sent to French Indo-China, a place called Saigon.

Q In what capacity did you enlist?

A As a second class private.

Q Did you have occasion to go to officers' school or become an officer candidate?

A Yes, I did.

Q And where was that?

A At Kurume, a second reserve officers' school.

Q What time did you complete that course?

A Twenty-ninth of April, 1943.

Q Where did you then go?

A Then I went to Manila.

Q In what capacity?

A As a probational officer.

Q How long did you stay in Manila?

A Then I went to Baguio where I received instructions as a probational officer.

Q When was that?

A That was from the 1st of July to the 30th of September, 1943.

Q And after the 30th of September, 1943, where did you then go?

A Then I went to Negros Island.

Q In what capacity?

A A probational officer.

Q Where did you go in Negros Island?

A In Bacolod.

Q And what were your duties at that time?

A I was assigned to the Takahashi Unit, and on about the 1st of November I was instructor for the recruits.

Q When were you promoted to a second lieutenant?

A The first of December, 1943.

Q The first of December, 1943, and during the month of December where were you located?

A I was at the Takahashi headquarters at the Bacolod Sugar Central.

Q Where in Bacolod was the headquarters of the Takahashi Company Unit in relation to the market square?

A It is eastward from the market at Bacolod.

Q Directly eastward?

A It is generally eastward.

Q About how far?

A About one kilometer.

Q Do you know where the Kempei Tai headquarters was in Bacolod City?

A Yes, I know the location.

Q Where is that in relation to market square?

A Three hundred meters southeast of the market place.

Q You stated you were training troops during December, 1943, how long did this training period last?

A Three months.

Q And when did that training period terminate?

A The 30th of January.

Q And the location of this training period for these troops was where?

A This training was conducted in front of the open ground in front of the Bacolod Sugar Central.

Q What type of education or training did these troops get at that time?

A It is a secondary basic training.

Q These troops you were training, they were recent additions to the Negros area?

A They received three months of training at the headquarters, that is the battalion headquarters, then they were sent to the various companies where they received additional three months of basic training.

Q On about the first of February you were still at this Bacolod Sugar Central, is that correct?

MR. AITKEN: You are leading the witness again now.

MR. WARD: Isn't his last answer --

MR. AITKEN: That is all right, but I don't want to object all the time.

MR. WARD: If it is repetitious I will gladly withdraw it. I will withdraw the last question.

Q Will you state again the date this training period ended?

A The 30th of January.

Q What was your duty commencing the first of February?

A At that time I was scheduled to go to Boroboro.

Q And did you go to Boroboro?

A Yes.

Q What date was that?

A The 4th of February.

Q Did you take any troops with you to that new station?

A Yes.

Q About how many?

A I took about five men, which I have given basic training.

Q When you reached Boroboro who was then in charge of that outpost?

A Sergeant Major Fujimaki.

Q Did Sgt. Major Fujimaki continue to stay at Boroboro?

A I relieved him and he returned.

Q Did he take all of his men with him?

A I believe he left about four men behind.

Q Do you remember any of the names of these men?

A Their names were Nakatani, Kimura, Sato, and Nakamura.

Q What was the rank of Nakatani?

A Corporal.

Q Do you know the whereabouts of Corporal Nakatani now?

A He was killed in action.

Q When?

A About the 1st of November, 1944.

Q Were there any Philippine constabulary at this Boroboro outpost?

A Yes, there were.

Q About how many?

A About six men.

Q What were your duties at this outpost?

A My duty was to guard the source of the water supply.

MR. WARD: (To the interpreter) Will the equivalent word be reservoir?

INTERPRETER SAITO: He stated "where the water comes out," he did not specify.

Q Would this source of water supply be a reservoir?

A It is where the water comes out from the ground and it is more or less a great pond.

Q Did it take all of this post to guard this garrison or did you have other duties at this time?

A I was guarding this source of water supply with all of my men and did not have other duties. Also, when the mayor of Bacolod dispatched men to repair the waterline, we went out for the purpose of security for the men.

Q Was there much guerrilla activity in that area during this period?

A It was not very frequent at that time; only there were instances where guerrillas raided the native homes for meat and vegetable supplies.

Q And how long did you stay at Boreboro?

A About three months.

Q You left there approximately what date?

A About the 8th of May.

Q Where did you then go?

A I returned to the company headquarters located at the Bacolod Sugar Central.

Q Did you take all or any of your men with you upon returning?

A Just I and my messenger.

Q What happened to the remainder of the men that were at the station when you left?

A They were left at Boreboro.

Q Who replaced you?

A Sergeant Major Suzuki.

Q Did you still retain command of this outpost or was your duty at that time completely changed?

A It was changed.

Q What were your duties at that time after you returned to the Bacolod Sugar Central?

A My duties were to train the seasoned soldiers.

Q Were these the same soldiers you had trained previously?

A Some of the troops that I trained before were among them. However, the greater majority were those who had been alternated from the various outposts.

Q Did these various outposts have scheduled substitutions of personnel?

A They were brought in only on the orders of the company commander.

Q To your best recollection, do you remember about the average period that an outpost duty would last?

A There was no schedule set and it was purely up to the company commander's discretion and these alternations were irregular.

Q What type of education did these seasoned troops receive from you?

A The trainings were anti-tank tactics, bayonet practice, anti-air tactics, night movements, squad tactics and also firing.

Q How long did this training period last?

A The soldiers were trained for about a one-month to one-and-a-half month period.

Q Did you instruct more than one group of soldiers?

A Yes, I have been successively training the troops.

Q How long did you remain training troops in Bacolod Sugar Central?

A Up until August.

Q What then occurred?

A Then I went to Victorias.

Q Do you remember about when in August you went to Victorias?

A On the 27th of August.

Q Have you ever heard the name Toriano?

A Yes.

Q About when did you first hear it?

A I believe it was around the end of June.

Q Will you tell us what information you know concerning this Toriano, to the best of your recollection?

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

A Around the end of June while I was conducting training at Bacolod, Elena Beter and another woman came to see me at the Takahashi guardhouse. They told me at that time that Toriano was not a guerrilla and that he had been arrested by the Boroboro outpost and had been sent to the Kempei Tai in Bacolod. After about a week a report came from the Kempei Tai to the Takahashi Company Headquarters and through the report the Takahashi Unit went on a punitive expedition to Boroboro to attack the guerrilla forces there, and also for the purpose of finding coal. On the next day, July 3d, in the morning they attacked the guerrilla forces. At that time Toriano was our guide, on the 4th of July we went to find the coal. After we had returned to Bacolod I heard that Toriano had struck the guard and had attempted an escape, so the guard had shot him. I heard this at the evening meal after we had returned to Bacolod.

Q Do you remember the testimony of Mrs. Beter in this court when she testified that she saw you at the station, and on the train with the prisoner Toriano?

A Yes.

Q Do you recall any event such as that occurring?

A I do not recall such an incident. I only met Beter at the guardhouse of the Takahashi Company.

Q Did you ever see this Toriano in the market place in Concepcion?

A I do not remember.

Q Did you arrest Toriano near the end of June in the market place in Concepcion?

A No.

Q Who was in charge of the Loroboro Garrison when you, Captain Takahashi, and Sgt. Major Suzuki left on this expedition in search of coal?

A Corporal Nakatani.

Q Calling your attention now to the end of August, 1944, you stated you went to Victorias. Who, indicating what troops, went to Victorias?

A All the soldiers and the company headquarters went to Victorias under the command of Captain Takahashi.

Q By all the soldiers, do you mean all of Captain Takahashi's company, is that right?

A No, just those at company headquarters.

Q At that time who was then left in charge of security of the Bacolod area?

A Until October 25, 1944, the Yamaguchi Battalion was responsible for the security of the Bacolod area. After that it was the Hori Battalion.

Q After arriving in Victorias October 27 or thereabouts, 1944, how long did you stay at that place?

A Approximately three months.

Q And then where did you go?

A From there we went to Bago.

Q What were your duties in Victorias?

A It was still the training of troops.

Q Of your own knowledge do you know why the Takahashi Company was transferred to Victorias?

A The reason Captain Takahashi was sent to Victorias was that the Kono brigade headquarters had moved into Bacolod from Iloilo, and therefore Captain Takahashi had been dispatched to Victorias because of the increase of strength at Bacolod. The Yamaguchi Unit was slated to go to Leyte, but that order was suspended and Captain Takahashi's entire company was assembled in Victorias for maneuvers. Around the 25th of October the Hori Battalion took over the security garrisons from the Yamaguchi Battalion.

Q You stated that the Takahashi Company went to Victorias on or about the end of August, but that the Hori Battalion took over the security of this area on or about the 25th of October. What company or branch of the Yamaguchi Unit had security duty over this area for that intervening period?

A The 4th Company under the command of Nakashima.

Q Was that Nakashima?

A Yes.

Q Approximately what day did the Takahashi Company go from Victorias to Bago?

A About the 5th of December.

Q What were your duties at that time?

A Until then it was that of training officer.

Q After reaching Bago how long did you continue your educational duties?

A I was officer in charge of the training on the day we reached Bago and the day after.

Q What occurred on the day after you reached Bago that caused you to cease your educational training of troops?

A I was wounded.

Q And where were you wounded?

A In the right leg.

Q Will you please indicate at this time the place where you were wounded?

A (Witness exposed scar of wound on leg.)

MR. WARD: Will it be stipulated by counsel that the witness is indicating the identical location of which the former testimony of Dr. Konda related?

MR. AITKEN: Yes, as shown by that photograph?

MR. WARD: That is correct.

Q How did that accident occur?

A During the anti-tank training one of the troops accidentally shot off a pistol.

Q And that pistol shot resulted in the wound that you just displayed?

A Yes.

Q At that time were you in or with out a truck?

A I was shot in the right leg from a foxhole about ten meters behind me.

Q Where were you at that time?

A I was standing in front of the foxhole about ten meters.

Q Do you recall the testimony of Captain Takahashi when he stated that the accident as described to him placed you in a truck or on a truck?

MR. AITKEN: That is objected to.

MR. WARD: For what purpose?

MR. AITKEN: Because you are cross-examining your own witness.

MR. WARD: I am not cross-examining.

MR. AITKEN: With reference to somebody else's testimony. What if he does remember it? Nor can you impeach Takahashi by this witness.

MR. WARD: I am neither trying to impeach nor am I trying to cross-examine. I merely asked him if he remembered such testimony.

MR. AITKEN: The question is objected to. Suppose he does?

MR. WARD: All right. Therefore, on what grounds are either of counsel's objections valid? The question is did he or did he not hear it. By that question I am not impeaching my witness and certainly I laid no foundation for impeachment of Takahashi. I am not attempting to impeach him. I am merely asking him if he remembers the discussion of his accident as related by Captain Takahashi. Either he does or he does not remember it. It is a fact.

MR. AITKEN: What is the materiality? If he does remember it, what difference does it make? If he does not remember it, what difference would it make? You can't impeach Takahashi's testimony by your own witness.

MR. WARD: I could, but I am not attempting to.

MR. AITKEN: So it makes no difference.

MR. WARD: What is the objection?

COLONEL STICKNEY: He states that it is immaterial.

MR. WARD: What is the validity of his objection?

It certainly would be material. The Commission is a judge of that. I state it is. It is certainly material to the issues involved, as to what actually occurred.

COLONEL STICKNEY: The question is whether it is material or not. Whether this witness remembers a certain statement which you asked.

MR. WARD: It is preliminary to the next question.

COLONEL STICKNEY: The objection is not sustained.

INTERPRETER NITTA: The witness would like to make a correction in his statement. Instead of ten meters in front of the hole, he was standing five meters in front.

A Since I had been wounded in the leg, I was loaded on to a truck and then it was that Captain Takahashi came to see me, and I believe Captain Takahashi is mistaken.

Q You said you were loaded on a truck, is that correct?

A When I was loaded on to the truck, Captain Takahashi came.

Q After the accident, how long did you remain in Bago?

A About thirty minutes after that.

Q Where did you go?

A ✓ I went to the Bacoled hospital.

Q On this truck?

A Yes.

Q Did anything occur on the way to the hospital?

A About two kilometers from the Bacoled Airport, we

stopped our truck because the Bacolod Airport was under attack from the American planes. Because the other soldiers on the truck did not give me assistance and when I tried to get off the truck I sustained a wound on my face. There were planes hovering over the truck, but we were not actually shot at. Therefore, I believe Mrs. Solidad was wrong when she said the driver of the truck was killed then.

Q Was the driver of the truck either shot or killed?

A No, he was neither killed nor shot at.

Q Did anything else occur from that point to the hospital?

A No, nothing occurred after that. About 500 meters from the hospital the truck again became under the attack of American planes. I was carried on another soldier's back to this hospital.

Q Do you know whether or not the driver of the truck at that time was either injured or killed?

A No.

Q Do you know the driver of that truck?

A Yes.

Q Do you know whether or not at that time or subsequently he was killed?

A I do not think he was killed in action, but I think he returned to Japan.

Q Do you remember what occurred the first few days you were in the hospital?

A On the second day that I was there, Kanda, the medical officer of the Yamaguchi battalion, came to see me.

On the third day I heard that Mrs. Solided had come to visit me from my orderly, but since I was asleep at that time, she was sent away.

Q By Mrs. Solidad, you mean Mrs. Solidad Pastrano?

A Yes.

Q How long did you remain restricted to your bed in the hospital due to your injury?

A I was unable to leave my bed until the end of February of the next year.

Q When were you released from the Bacoled hospital?

A On or about the 20th of March.

Q Where did you then go?

A I went to Lourdes.

Q At that time you were under whose jurisdiction?

A During my stay at the hospital I was under the jurisdiction of the chief of the hospital.

Q Calling your attention to the hospital in Bacoled, do you recall having any Filipino visitors?

A Yes.

Q Will you relate the names, if you know them, or identify those people?

A I had many visitors, but the only ones that I can remember now are Elena Beter, her husband and her children, Mrs. Solidad and her elder sister, Marguerita, who was a waitress hired by Mrs. Solidad, and Simon Espueras, and three other persons from Hacienda Concepcion. Others I cannot recall at present.

Q Do you remember for what purpose Mrs. Beter's family came to see you?

A The reason she and her family came to see me at the hospital was because her husband had been arrested by the Boroboro outpost, under the command of the Hori battalion, under the charges of being a spy. She had come to ask for my assistance in obtaining his release.

Q Calling your attention to Lourdes, how long did you remain there after approximately March 20?

A Approximately ten days.

Q What occurred then?

A I heard that the American Forces had landed near Pulupanden on the 29th of March, and since they were advancing toward us, we were evacuated to Mandalagan.

Q On which day did you evacuate Lourdes?

A On the morning of the 30th of March.

Q And where did you go then?

A To Granada.

Q When did you leave Granada?

A About seven o'clock on the 30th of March.

Q Morning or evening?

A In the evening.

Q Where did you go then?

A From there we hit the road which was constructed by the Japanese army to Mandalagan where the Japanese had constructed defense positions.

Q You say "we". Whom do you mean?

A By "we" I mean the fourteen or fifteen patients of the Yamaguchi battalion.

Q And by what mode did you get to Mandalagan: vehicle, foot, or otherwise?

A We went by truck to Granada; from Granada we walked to Mandalagan.

Q By Mandalagan do you mean the peak or the range of which that peak is the highest point?

A I mean the Mandalagan Ranges.

Q What time of day and on what day did you and the fourteen or fifteen other hospitalized soldiers reach the Japanese defense positions?

A About three A.M. on the 31st of March.

Q What troops were there, if any, at that time?

A Troops of the Yamaguchi battalion.

Q Do you know whether or not Captain Takahashi's company was there?

A Yes.

Q Was Lieutenant Oyama, the last witness, one of the fourteen or fifteen hospitalized patients that went on this journey with you?

A Yes.

Q When you reached the Japanese positions on the Mandalagan Range where did you go?

A When I reached Mandalagan position at three o'clock on the 31st of March, I contacted the Nakashima company first. At seven o'clock we proceeded on foot to the Takahashi company and reached the Takahashi company at nine o'clock that morning.

Q Do you know Lieutenant Yamanouye?

A Yes.

Q Did you have occasion on or about this period to see Lieutenant Yamanouye?

A I met Lieutenant Yamanouye on the evening of April 1st.

Q April 1st?

A Third of April.

Q What were your duties at this time with the Takahashi company, if any?

A I had no special duties.

Q For what reason did you have no duties?

A I was not fully recovered from the injuries.

Q Did you still have occasion to be under the care of a doctor?

A On the 5th of April I was examined by Medical Officer Kanda. After that I was under the care of a non-commissioned medical corpsman.

Q During this trip from Granada to the Mandalagan Range, did you have occasion to see any Filipinos?

A No.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours on the 9th of November.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 9 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XXI
PAGES 1171 TO 1209, INCL.

MANILA, P.I.

DATE: 9 November 1946

COPY NO: 1

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

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vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
9 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA	)	
T/3 TAKEO SAITO	)	JAPANESE
2d LT. TAICHI NISHIHARA	)	
2d LT. JAMES NAKAMURA	)	
FILOMENA ZOSA	)	
PEDRO GENOVES	)	ILONGO (Visayan)
MACARIO E. BELAONG	)	

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D I X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
Masao Nanjo	1172 1178	1179			1193

P R O C E E D I N G S

(The Commission reconvene , pursuant to adjournment, at 0830 hours, 9 November 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all of the members of the Commission, Defense Counsel Ward, the defendant and his personal interpreter, the interpreters in Japanese, and reporter, and the member of the prosecution are all present in court. Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

MASAO NANJO

a witness in his own behalf, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Saito:

DIRECT EXAMINATION (Cont'd.)

BY MR. WARD:

Q According to your testimony yesterday you were in the Japanese defense positions in the Mandalagan Range on or about the first part of the month of April, is that correct?

A Yes.

Q What was the relative strength or degree of the American attack on these Japanese positions at that time, that is around the first part of the month of April?

MR. AITKEN: Objected to as being immaterial.

MR. WARD: I think it is directly material. We have a count that states on or about the month of April and the testimony specifically relates to about the 4th or 5th in the month of April that this defendant committed certain acts, in that he is alleged to have instigated the deaths of Roman Dizon and Benito Mirivelles. Now, the witness has testified that he was in the Japanese defensive positions reaching there approximately the end of March, the 30th of March, or the 1st of April. The relative strength of the American attack on these positions at this time is directly material as to how his actions would be related to that strength.

COLONEL STICKNEY: The objection is not sustained.

A The total of all the Japanese combat and non-combat

strength was approximately 10,000. Against this the Americans, with their superior equipment, numbered one brigade and a regiment. That is what I heard.

Q I am referring to the relative strength of firing upon the Japanese positions at this time by the American forces.

MR. AITKEN: I will object to the question unless you make the time a little more concrete -- about this time -- we haven't any evidence.

MR. WARD: I have been relating to the first part of the month of April.

MR. AITKEN: The first part, is that the 1st to the 15th?

MR. WARD: 1st to the 10th.

COLONEL STICKNEY: Will you reframe the question, please?

MR. WARD: All right.

Q Can you describe the relative fire power upon the Japanese positions by the American forces in the period of about the 1st or 10th, or 1st to the 15th of the month of April, 1945?

COLONEL STICKNEY: In my opinion we had a very unsatisfactory answer to the last question, and I am not sure whether you want to elicit some information about the Mandalagan Range or whether you are interested in the whole archipelago of the Philippines.

MR. WARD: We are relating to the Japanese position in the Mandalagan Range.

COLONEL STICKNEY: I don't think he knows that. I wonder if you will reframe that so that he will?

MR. WARD: I know there is a military word with which I am not familiar relating to the amount of the firing upon the position. What do you call that word, fire power is the best I can think of.

COLONEL STICKNEY: I am not concerned about that word, but do you think you are going to get an answer about the Mandalagan without mentioning the Mandalagan Range in your question?

MR. WARD: I know that.

COLONEL STICKNEY: I don't think you have.

Q Relating this question to the Japanese position in the Mandalagan Range.

MR. WARD: Evidently my question is very difficult in being translated to Japanese because of the word used. I would like to withdraw that question.

Q Was there much firing upon the Japanese positions by American forces. That is, this position in the Mandalagan Range, of which Nanjo's Unit was a part, during the 1st part of the month of April?

A The firing by the American forces was very intense.

Q Did you notice, did any members of the Takahashi Company or Yamaguchi forces make forays or expeditions to the Bacolod area during this period?

A The Takahashi Company did not go on any expeditions or forays, and the Yamaguchi Unit was just engaged in combat with the American forces and was in retreat.

Q When did the Japanese forces retreat from this position in the Mandalagan Range?

A We crossed the peak of Mount Mandalagan on the 17th of June, and went to a place called Pandanon beside the Bago River.

COLONEL STICKNEY: Do you have the spelling of that river?

INTERPRETER NISHIHARA: That was the Bago River, sir.

COLONEL STICKNEY: Bago?

INTERPRETER NISHIHARA: I believe so, sir. I would not be positive of that, and this place according to the way the witness pronounced it sounded very much like P-A-N-D-A-N-O-N, although I would not know.

COLONEL STICKNEY: Pandanon River?

INTERPRETER NISHIHARA: That was not the river, sir, that was the location. It was beside the Bago River.

Q When were you again assigned to active duty?

A About the 20th of April.

Q And where was your group at that time?

A At the positions on Mount Mandalagan.

Q Is that the Mandalagan Range that you formerly went to, or is this the peak of Mount Mandalagan?

A I am referring not to the peak, but to the positions of the Japanese forces.

Q During this period of the first part of April, the 1st to the 15th, did you have occasion to see any Filipino civilians?

A No.

Q Calling your attention to two of the witnesses that testified in this case, Tiburcio Jonota and Gil Tanique, do you remember seeing them on or about this time?

A What period are you referring to?

Q The 1st part of the month of April.

A No.

Q Have you ever seen them?

A I sort of recollect that I saw them while I was at the Boroboro Garrison, although I do not know their names.

Q Do you recognize the names or the people, Benito Mirivelles and Roman Dizon?

A No.

Q Where were you on the approximate date, on or about the 18th day of February, 1945?

A I was at the hospital in Bacolod.

Q Do you recall the names of Dionisio Antera or Francisco Villasor?

A No.

Q Do you ever remember seeing these people?

A I do not remember anything like that.

Q On or about the 21st day of December, 1944, where were you at that time?

A I was at the hospital in Bacolod.

Q Do you recall the names of Faustino Alindog, Ricarido Alindog?

A No, I do not.

Q Do you remember Leopoldo Agravante, a gentleman that testified in court?

A It seems that I have seen him before while I was at

the Boroboro Garrison, but I am not sure.

Q On or about the month of January, 1945, more specifically about the middle of that month, where were you at that time?

A I was at the hospital.

Q Excuse me. January, 1944, about the middle of that month?

A I was at the Bacolod Sugar Central.

Q Do you know or remember the names of Teodoro Vera, commonly known as Doroy, or Juan Villas?

A No, I do not.

Q Calling your attention to about the 5th day of December, 1944, where were you at that time?

A I was going from Victorias to Bago.

Q Do you know the name of Dionisio Letosa?

A I do not.

Q How far is Bago from Hacienda Carmen, or the Boroboro-Concepcion area?

A I believe from twenty-five to thirty kilometers.

Q How far is Victorias from the same area, that is Hacienda Carmen or Boroboro-Concepcion area?

A About forty kilometers.

Q Calling your attention to the eighth day of December 1944, where were you at that time?

A I was at the hospital in Bacolod.

Q Do you recall the names of Felix Amador, Felicito Alba, Pablo Palomo, Marcos de Tomas, the last of which testified in this court?

A No, I do not.

Q Calling your attention specifically to Marcos de Tomas, had you ever seen him before this time?

A I do not remember seeing him.

Q You stated yesterday on direct examination that your parents, that is, your mother and father and several brothers and sisters, were alive, is that correct?

A Yes.

Q You also stated an address located in the north of Tokyo. Are they still at this address -- this farm in the north of Tokyo?

A Yes.

MR. WARD: You may cross-examine.

MR. AITKEN: May I have a few minutes before I start the cross-examination?

COLONEL STICKNEY: How long will it be?

MR. AITKEN: Five.

MR. WARD: I do have one question, if counsel doesn't mind.

FURTHER DIRECT EXAMINATION

BY MR. WARD:

Q Prior to being charged in this action, were you ever contacted by an investigator for the prosecution?

A Yes.

Q Did he ask you about the various events with which you were later charged?

A Are you referring to the time after I was charged?

Q No. Did this investigator, prior to your being charged, refer to the various events or happenings with which you are now charged in his conversation with you?

A I was asked things which had a general connection with those events.

Q Did you tell that investigator of your hospitalization?

A Yes.

MR. WARD: That is all.

COLONEL STICKNEY: Do you require a little more time?

MR. AITKEN: About five minutes.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: I wish to remind the witness he is proceeding under oath already administered.

(The witness was reminded he was still under oath.)

CROSS-EXAMINATION

BY MR. AITKEN:

Q Do you remember the date of your arrival in Manila?

A You mean when I came from Japan?

Q Yes.

A Yes, I do.

Q What date was that?

A June 22d, 1943.

Q Can you remember the exact date that you left Manila?

A Yes, I do.

Q What was that?

A 30th of June.

Q The same year?

A Yes.

Q Was that before or after you went to Saigon?

A It was after I had gone to Saigon.

Q What was the date you went to Saigon?

A You mean when I left Japan?

Q When you arrived in Saigon?

A It was the 14th of June 1942.

Q Do you keep a record of these dates, or do you just remember them?

A I had been keeping a record of them. However, I heard that they would be confiscated at the prisoner-of-war stockade, so I burned them.

Q Did you burn them up there at the stockade or before you arrived at the stockade?

A It was before I entered the stockade.

Q What was it you feared in your records that caused you to burn them?

A I had no fear. However, I had heard that possession of such things would cause inconveniences in the future, so I burned them.

Q Did you burn those records before or after you were investigated?

A It was before I was investigated.

Q Now, when you left Manila, whence did you proceed?
To Negros?

A I went to Baguio.

Q How long did you stay there?

A Three months.

Q When did you leave Baguio -- September 30?

A It was the first of October.

Q Do you remember what day of the week?

A No, I do not.

Q Do you remember whether it was the beginning or end of the week?

A I do not remember.

Q You have not the slightest idea whether it was Sunday, Wednesday or Saturday?

A I have no memory at all.

Q From Baguio did you proceed then to Negros?

A Yes, I went there via Manila.

Q Arriving there what date?

A You mean on Negros Island?

Q Negros Island.

A 9th of October.

Q 1943?

A Yes.

Q After arriving at Negros your headquarters were in Bacolod?

A Yes.

Q And you were engaged from the time you reported for duty in Bacolod in the training of troops?

A Yes, that is generally correct.

Q Was this a primary or secondary training that you were giving during this first period of time after you reported?

A It was a secondary.

Q And that included firing practice?

A Yes, of course, because it was a secondary training for recruits.

Q And your headquarters were in the City of Bacolod at the time?

A It was at the Bacolod High School. That was the battalion headquarters.

Q Was your firing practice conducted in the immediate vicinity of the Bacolod High School or did you take your troops outside at a distance?

A There is a golf course near the Bacolod airfield and there was also a firing range there and that is where we went.

Q Did you set up a rifle range there?

A Yes.

Q In addition to firing and other duties of secondary training, did that include the conditioning of the men by long hikes, marches?

A No, we did not have any hikes.

Q What did you do towards conditioning the men for endurance, if anything?

A First of all, we had calisthenics; then running and bayonet training.

Q Marching distances was not in the curriculum?

A There was no necessity for conducting hikes.

Q Your answer to that then is "no," is that right?

A Yes, that is right.

Q Now, you say you went to Victorias the end of August 1944. Do you remember the exact date you left for Victorias?

A From Victorias to where are you referring?

Q The time the Takahashi unit went from Bacolod to Victorias.

A The 27th of August.

Q Are you positive as to that date?

A Yes.

Q Could it have been the 28th?

A The main strength of the unit left on the 27th and on the 28th the equipment of the company such as desks, etc., left.

Q Did you leave with the main strength or with the equipment?

A I was in charge of transportation and I went on the 27th. I also returned on the 28th once.

Q You mean you returned to Bacolod on the 28th?

A Yes.

Q And then on that same day you went back to Victorias?

A Yes.

Q Now, I believe you said that only those at the company headquarters went to Victorias, yesterday. Tell us just who or what part of the Takahashi outfit went to Victorias?

A The Silay and Talisay garrisons had returned to the company. They went together with the company headquarters.

Q What part of the unit stayed in Bacolod, if any?

A There were no units remaining in Bacolod. However, the Murcia; the Boroboro, the San Roman, and Manapla garrisons were still there.

Q How many men were in the Manapla garrison?

A Twelve or thirteen.

Q How many at San Roman?

A About twenty.

Q How many at Murcia?

A Fifteen or sixteen.

Q And at Boroboro?

A About ten.

Q Were these various units or garrisons under command of commissioned or noncommissioned officers at that time?

A At that time Lieutenant Nishikawa was in charge of the San Roman garrison, and the other garrisons were under noncommissioned officers.

Q Was this the first time that you had been to Victorias?

A Yes.

Q While the main body of your unit was at Victorias, how was liaison kept up between the headquarters and the various outside garrisons that you just mentioned?

A Liaison was kept up by telephone and by automobile.

Q Were messengers sent or inspectors, officers sent as inspectors?

A No, according to the necessity the garrisons made telephone calls through company headquarters, and since there were automobiles assigned to each of these garrisons, they were also used.

Q Who would use the automobiles?

A The garrison commanders would use them.

Q Do we understand by that, that each garrison commander would have an automobile with him at his disposition?

A Yes, in general.

Q Were any officers sent from Victorias to inspect these various garrisons at this period?

A No.

Q Now, there was one period of time when the Yamaguchi unit assembled for departure for Leyte, do you remember that period?

A Yes, I remember it.

Q Did the Takahashi unit assemble also for an expected departure for Leyte?

A Yes.

Q When?

A The 26th of October.

Q Who comprised the body of troops concentrated for Leyte?

A That included the Yamaguchi unit, division engineers, division transport troops.

Q And the Takahashi unit was a part of the Yamaguchi unit, is that true?

A Yes.

Q And where was the concentration, in Bacolod?

A Yes, it was the city of Bacolod.

Q And did the entire Takahashi unit then concentrate in Bacolod?

A Yes.

Q How long did it stay there?

A Until the 3rd of November.

Q And you arrived there at what date for concentration in Bacolod?

A The 26th of October.

Q You haven't any idea of the day of the week that was either, do you?

A No, I do not.

Q And the 3rd of November did you return to Victorias?

A Yes.

Q Did the entire unit, referring to the Takahashi unit, return to Victorias on the same day?

A Yes.

Q You are certain it was the 23rd, the 23rd of November?

MR. SCHAUER: The 3rd.

Q The 3rd of November, make that the 3rd. Are you certain it was the 3rd of November?

A Yes.

Q Now, the unit left Victorias for Bago on what date?

INTERPRETER NISHIHARA: Are you referring to the Takahashi unit?

MR. AITKEN: The Takahashi unit.

A The 5th of December.

Q Have you any idea of the day of the week that was?

A No, I do not.

Q In your service with the Japanese, was Sunday distinguished as any different day of the week from any others, in the sense that it was utilized as a day of rest?

A Before the situation had become critical we had been observing Sunday as a day of rest. However, since the situation became critical there was no differentiation for Sunday.

Q And when do you estimate the situation became critical?

A In general after the time we received orders to move to Leyte.

Q Referring back to the time when you proceeded from Bacolod to Victorias on the 27th or 28th of August, what was the nearest -- how close were those two dates to Sunday?

MR. SCHAUER: I will object to that. I believe that has been asked and answered. He was asked, was he not, whether ~~dates~~ were Sunday, or Wednesday, or Friday, or tell the day of the week. I believe it has been asked and answered.

COLONEL STICKNEY: I would like to hear the question, please.

(Question read by reporter.)

COLONEL STICKNEY: The objection is not sustained.

A I cannot estimate.

Q Now, when your unit went from Victorias to Bago, were you with it?

A Yes.

Q Did the entire unit go to Bago, or did some go to Lourdes?

A They all went to Bago.

Q Do you know where Lourdes is?

A Yes.

Q How far is it from Bago?

A In a direct line, I believe twenty-three or twenty-four kilometers.

Q And by road?

A About twenty-four kilometers.

Q And which direction is it from Bago?

A Generally north.

Q How far is it from Lourdes?

A It is approximately one kilometer from the central.

Q Is the central just on the outskirts of the city itself, referring to Bacolod?

A Yes.

Q How far would that be from the market place?

A About one kilometer.

Q Did you go to Lourdes at all?

A Yes.

Q When?

A About the 20th of March 1945.

Q The accident that took place, referring to the time you were shot in the leg, was on what date?

A December 6th.

Q Was that in Bago itself?

A Yes.

Q Have you any idea what the day of the week was at that time?

A No, I do not.

Q Your troops were armed with what sort of weapons, with reference to pistols?

A The Japanese army Model 14, and those that were taken from the American forces.

Q And the pistol that was discharged and which caused your wound was what kind of a weapon?

A That was from the Japanese army's Model 14.

Q What caliber weapon was that?

A 6.5 millimeters.

Q How does that compare in size, if you know, with what is known as the German Luger, or 25 Caliber?

A I have never seen any German Luger so I do not know.

Q Do you know what a 25 Caliber weapon is?

A No, I do not.

Q What was the caliber of the Japanese rifle?

A The Model 38 was 6.5 milometers. The Model 99 was 7.7 milometers.

Q Now, when you were struck by this bullet, did it knock you down?

A It felt as if I was struck with a club at the point of my wound and my knees buckled and I touched the ground.

Q Did you get up under your own power?

A No, I did not, I stayed on the ground.

Q Were you incapacitated from walking as a result of the wound?

A Are you referring to the time when I received the wound?

Q Yes.

A Yes.

Q And for how long after?

A Until the latter part of February 1945.

Q And it was until the latter part of February 1945 before you made any effort to stand up?

A I desired very much to walk. However, every time I put my weight on it there was a stinging sensation in my muscles and therefore I could not.

Q Did your knee become stiff?

A More than my knees, the muscles in the back of my leg bothered me and I could not stand.

Q Where was your unit when you rejoined it?

A When do you mean by "rejoin"? From what time?

Q After you were discharged from the hospital, you rejoined your unit, did you not?

A It was at the positions on Mt. Mandalagan.

Q And did you proceed then direct from Bacolod to the position on Mt. Mandalagan?

A No, that is not correct. I went to Lourdes first and then to Mt. Mandalagan.

Q When did you go to Lourdes?

A About the 20th of March.

Q You say about the 20th of March. Was it in the vicinity of the 20th of March or exactly on the 20th of March?

A I do not remember clearly. There might have been a day or two difference there.

Q That is, it might have been the 18th, 19th, 20th, 21st, or 22nd?

MR. WARD: Objected to as argumentative. He said a day or two, either way.

COLONEL STICKNEY: The objection is not sustained.

A It was not before the 20th.

Q But it might have been how many days after the 20th?

MR. WARD: Objection again as asked and answered. He said one or two days. What is counsel trying to do?

MR. AITKEN: Trying to find out exactly.

MR. WARD: He said, "The 20th, I might be off one or two days." It is a complete answer. It answers this question. It is asked and answered and it is argumentative.

COLONEL STICKNEY: The objection is sustained.

Q From Lourdes where did you go?

A To the positions in the mountains.

Q Did you go directly to the positions in the mountains or did you go via other places?

A What do you mean by via some other places?

Q Did you go directly from Lourdes to the position in the mountains or did you go to Concepcion or Granada or Boroboro, or any of those other places?

A I went to Granada, Concepcion, and San Fernando.

Q On foot or by conveyance?

A We went by vehicle to Granada and from there we walked.

Q How far did you have to walk?

A Approximately twenty kilometers.

Q And when did you leave Granada? What date?

A The 30th.

Q The 30th of March?

A Yes.

Q Do you remember the day of the week?

A No.

Q Have you any idea whether the 30th of March was a Sunday or whether the 30th of March was toward the middle of the week?

A I have no memory of that.

Q Now, from Granada when you started your hike, how long did it take you to get to the position?

A We reached the positions of the Nakashima unit at about 3 or 4 o'clock in the morning of the 31st.

Q And when did you reach the positions of the Takahashi unit?

A About 9 A.M.

Q Of the same day?

A Yes, on the 31st.

MR. AITKEN: That is all.

COLONEL STICKNEY: Any redirect examination?

MR. WARD: No questions.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I would like to ask how long you were the garrison commander at Boroboro?

A Approximately three months.

Q What three months were those?

A Those would be the months of February, March, April, and the beginning of May 1944.

Q Did you become well known in that vicinity while you were there?

A I believe that the people there knew me well, because I had gone to Boroboro Station and I had also gone on the train from Boroboro to Bacolod together with the people.

Q Did you get to know a lot of Filipinos in that vicinity?

A It was more a matter of them knowing me, rather than of myself knowing them.

Q Did you deal with many of the inhabitants in that vicinity?

A Yes, I have some occasions to speak with them.

Q Did you learn their names?

A There was no necessity for me remembering the names. However, I know some of them by their faces.

Q Did Mrs. Beter come from that vicinity?

A Yes.

Q Did you first know her there or at Bacolod City?

A At Boroboro.

Q What dealings did you have with Mrs. Beter at Boroboro?

A In the early part of April Mrs. Beter came to obtain a civilian identification pass. The other Filipinos had not asked to see me. However, she did and I got to know her from that.

Q Did you know Mr. Beter at Boroboro?

A Yes.

Q How did you get to know Mr. Beter?

A The second or third time Mrs. Beter came down to the garrison, Mr. Beter accompanied her.

Q What were the purposes of the visits of the Beters to the garrison?

A I do not know the reasons. However, they came and said that they wished to talk to me.

Q How many times did they come there?

A I have no recollection as to any definite number of visits. However, until the time I left Boroboro they came once a week and sometimes twice a week.

Q Both of them?

A There were only one or two occasions when both of them came.

Q You mean Mrs. Beter came once a week or twice a week, is that correct?

A Yes.

Q And she brought her husband on one visit, the third?

A It was about the second or third.

Q And after that she came once or twice a week and generally alone, is that correct?

A She came together with some other inhabitants there and at times with her younger sister.

Q But she brought her husband with her on how many occasions?

A Once or twice. I am not absolutely certain.

Q Her visits were at intervals of a week or a half-week, is that correct?

A Yes, that is it generally.

Q And counting the visits she made alone, those she made with her husband, and those she made with friends, how many visits did she make to your garrison?

A I do not remember clearly.

Q Would it have been a dozen?

A I do not remember clearly.

Q Would it have been a half dozen?

MR. WARD: Objection at this time. It is now becoming argumentative, in the fact that he has definitely stated as to several numbers and describing the time of visits is beyond his memory. At this time it becomes argumentative and we object.

COLONEL STICKNEY: I withdraw the question.

Q Would it be as many as half a dozen times?

A I am not certain on this but I believe there were about ten.

Q And when was the first visit?

A I am not sure, but I believe that it was the middle of April.

Q Do you remember a little while ago stating the occasion of her first visit -- the purpose of her first visit and the date?

A Yes.

Q Do you remember when you said she came to get her paper from you?

A I believe I said about April at that time.

COLONEL STICKNEY: Could the reporter read back one of his early answers about the visits of Mrs. Beter?

(The reporter read the desired portion of the testimony.)

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is proceeding under the oath already administered?

(Interpreter Saito translated to the witness.)

Q In general, what were your dealings with the inhabitants in the vicinity of Boroboro during the three months you were there?

A Things went very smoothly and they asked me to do things for them and I had faith in them. They also had faith in me.

Q Did you make any enemies there among the natives?

A No.

Q Had you ever been to Boroboro before you went there as garrison commander in February of 1944?

A No.

Q Did you ever go there after you left there in early May of 1944?

A Yes.

Q On what occasion, how many occasions?

A Once.

Q And what was that?

A That was when we went on an expedition against the guerrillas with Toriano.

Q While you were at Boroboro what area of activity did you operate in? In what area did your duties carry you, into what areas?

INTERPRETER NISHIHARA: Are you referring to the time he was garrison commander, sir?

Q Yes, from February to early May 1944?

A I was responsible for the Boroboro water shed and the pipe line to the Rosario reservoir.

Q During that time did you used to go to Bago?

MR. WARD: Does the Commission mean Bago or Balogo?

COLONEL STICKNEY: I will withdraw that question.

Q During that time did you go to Balogo?

INTERPRETER NISHIHARA: That is referring to the same time again, sir?

Q Yes, during that period, February to early May, did you used to go to Balogo?

A I passed through there.

Q In connection with the water shed or the pipe line, or for what purpose?

A The pipe line passed close to Balogo and in the early part of May I was ordered by the company commander to make a topographical map of the area.

Q Did your duties in connection with the pipe line go all the way from Boroboro to Bacolod, or to the half-way mark, or how far?

A Up to the Rosario reservoir.

Q Would that be midway between Bacolod and Boroboro?

A It is approximately five kilometers west of Boroboro.

Q While you were on duty as garrison commander, did your duties carry you to Concepcion?

A Yes, I went there in order to make the topographical map.

Q Did you go to Concepcion frequently during those three months?

A When I was making the topographical map I went there two or three times.

Q Are you familiar with the market place there?

A Yes, I know it.

Q Do you know the Toriano butcher shop or meat market?

A You mean at that time?

Q No, now. Do you know the Toriano butcher shop or meat market?

A No, I do not remember.

Q Well, did you know it at that time?

A No.

Q Did your duties used to take you to San Francisco during those three months?

A Yes.

Q For what purpose?

A The Boroboro station and the market place are at San Francisco.

Q Is San Francisco another name for Hacienda Francisco?

A As indicated on the map presented by Mr. Ward, that which is labeled San Francisco should be Hacienda Francisco.

Q Did your duties used to take you during those three months to the vicinity of Hacienda Carmen?

A Yes, in order to prepare the map.

Q What was this map that you were making, what was the purpose of that?

A The construction of many airfields was contemplated for the battle of the Philippines, and so this map was being prepared for that purpose. That was for the purpose of selecting suitable sites for airfields.

Q Was it contemplated putting Japanese airfields in the vicinity of Boroboro?

A At first it was contemplated. However, due to various reasons it was dropped.

Q When was it dropped?

A I do not know because I have no connection with that. I was just ordered to prepare a topographical map.

Q Do you remember Mrs. Beter coming to you to plead in the case of Mrs. Toriano?

A Yes.

Q How many times did she contact you in this connection?

A She came to me once while I was in Bacolod.

Q How many times did she contact you in connection with the case of Mrs. Toriano?

MR. WARD: Objection, just answered. She came to him once while in Bacolod.

COLONEL STICKNEY: Would you be satisfied with that answer?

MR. WARD: All right, I will withdraw the objection.

A Just once in connection with Toriano.

Q And what date was that?

A I am not certain of this, but I believe it was near the end of June.

Q And where did she contact you then?

A It was at the guard room of the Bacolod Central.

Q Did she bring Mrs. Toriano with her?

A I did not know her name at that time, but she did.

COLONEL STICKNEY: Will you read that, please?

(Last answer read by reporter.)

Q And what was the plea made to you by these two women?

A I am not sure of this. Mrs. Beter spoke in English and Mrs. Toriano in Visayan. Mrs. Toriano said that her husband was not a USAFFE but a civilian and so she asked me to exert my efforts to save him.

Q You say this was near the end of June 1944?
A Yes.
Q Can you place it more exactly?
A I cannot make it certain.
Q Could it have been early July?
A No.
Q You are sure of that?
A Yes.
Q Did they tell you at that time the date of the arrest of Toriano?
A No.
Q You had never seen Mrs. Toriano previous to that, had you?
A I do not remember very clearly.
Q Had you known of the Toriano case when Mrs. Beter contacted you at the Sugar Central?
A I had heard of it in reports from the Takahashi unit.
Q What had you heard about it at the time Mrs. Beter came to you?
A I had heard that a butcher in Concepcion, a guerrilla, had been giving information of the Japanese Army to the guerrillas, and on top of this he had been supplying them with beef.

Q From whom had you heard that?

A Intelligence reports coming from the Kempei Tai and battalion headquarters and such a report also included in one of them. Captain Takahashi read this and told me of it. I also read it.

Q How long before the visit of Mrs. Beter had you read this report?

A Two or three days before.

Q Did the report cover his arrest?

A There was no mention as to his arrest. It just said that there was such a person and since it was of special importance to the Takahashi unit the name "Takahashi Unit" was indicated in red pencil.

Q What was the significance of this pencil mark?

A This Intelligence Report included the entire Negroes area and also of the advance of the American forces, so when there was anything in particular which referred to any company, this was indicated.

Q Was this a monthly report or a weekly report?

A There was no special interval between publication of it.

Q How long a report was it in pages?

A I have no recollection as to the number of pages.

Q Was it all on one page?

A Are you referring to this specific report?

Q I have not talked of any other report that I know of.

COLONEL STICKNEY: I withdraw that question.
I want to be sure there is no trouble with the translation.

The witness has been talking about an Intelligence Report which was neither **monthly** nor weekly and on which a pencil mark pointed to something for his Takahashi Unit. I want to know how much of a report this was -- whether it was all on one page or not.

INTERPRETER NISHIHARA: You are speaking of the entire report?

COLONEL STICKNEY: This Intelligence Report.

INTERPRETER NISHIHARA: The entire Intelligence Report.

A There were three or four pages in that report and there were only three or four lines concerning Toriano.

Q Was this a report of a nature that it came out from time to time according to the amount of intelligence information that needed to be broadcast?

A Yes. These were published with the accumulation of Intelligence Reports and also at times when urgency was necessary.

Q How was it designated from other similar reports? Was it given a number?

A Yes, they were numbered.

Q Do you remember the number of this one?

A No, I do not.

Q What headquarters published this report?

A It was from both the Kempei Tai and battalion headquarters.

Q Who signed it?

A From the Kempei Tai, the commander of the Kempei Tai, and from battalion headquarters, the officer in charge of intelligence.

Q And these two signatures appeared side by side at the bottom of the last page, is that correct?

INTERPRETER NISHIHARA: I believe I made an error in the interpretation along the way, sir, and these reports were not -- I understood it to be published jointly by the Kempei Tai and battalion headquarters. However, they were published by both Kempei Tai and battalion headquarters, but not the same ones. Therefore, this is going back to his testimony again:

A When the Kempei Tai issued these reports the commander of the Kempei Tai signed his name and when the reports came from battalion headquarters the officer in charge of Intelligence signed them. Their names appeared on the bottom right-hand corner of the first page.

Q Did the Kempei Tai have one series of numbers for their reports and did the battalion headquarters have a separate series of numbers for their reports, or were they all one series of number?

A The chain of command is different, so therefore, the numbers were different.

Q Each headquarters had its own series of numbers?

A Yes.

Q Neither headquarters published an Intelligence Report weekly, monthly, but each published one from time to time, is that correct?

A Yes.

Q And both series of reports were made available to the Takahashi Unit, is that correct?

A Yes, it goes to all the units of the battalion, as well as to all related units on Negros.

Q Do these reports cover both Occidental Negros and Oriental Negros?

A Just Occidental Negros. Also Intelligence Reports which might be advantageous to the whole Japanese army come from other sources.

COLONEL STICKNEY: Will the reporter read the entire answer, please?

(The reporter read the answer.)

Q Where was the Kempei Tai headquarters which published these reports?

A It was in Bacolod.

(At this time the witness spoke further to the interpreter.)

COLONEL STICKNEY: Is that the answer?

INTERPRETER NISHIHARA: Shall I explain what he said, sir?

COLONEL STICKNEY: That is up to you. I have my question answered.

A (Cont'd) The whole name of the unit was the Bacolod Kempei Tai Detachment.

Q Now, the report which you saw which was marked with red pencil, was that in the battalion series or was that in the Kempei Tai series of Intelligence papers?

A That was from the Kempei Tai.

Q Was that the first time you had ever heard the name Toriano?

A Yes.

Q Did you read that paper on a bulletin board or was it left a copy on your desk?

A At company headquarters there is a non-commissioned officer in charge of Intelligence and he keeps a file of this. I saw this report in that file.

Q How many company officers were there in the first company located at the Sugar Central at that time?

MR. WARD: Excuse me. What time is this the Commission is now referring to? The time he saw the report?

COLONEL STICKNEY: Yes.

A Are you referring to company headquarters?

COLONEL STICKNEY: Will the reporter read the question, please?

(Reporter read the question.)

A (Cont'd) There was the company commander and four others.

Q Was it required of all five that they read these bulletins in the office of the non-commissioned officer of Intelligence?

A Yes, that is generally so.

Q The first thing you knew about this was when you went into the non-commissioned officer's room and read his report, is that correct?

A Captain Takahashi had informed me there was such a report and I had gone there to read it.

Q What time did you go there to read that report?

A I do not remember the time.

Q Was it on a training day?

COLONEL STICKNEY: Is that hard to translate?

INTERPRETER NISHIHARA: No, sir. You refer to that as he giving the training?

COLONEL STICKNEY: I will withdraw that question and ask another.

Q Were you carrying on training on the day that you read that report?

A Yes.

Q When you were carrying on training, what hours were you required to be on the drill field or the rifle range or the bayonet course?

A In the mornings, from 8 to 11:30. In the afternoons, from 2 to 4.

Q Were those hours invariable always?

A Yes.

Q Did you ever conduct any night training?

A Yes.

Q Did you conduct night training between 8 and 11:30 and between 2 and 4?

MR. WARD: That is argumentative, sir. Objection by the defense.

COLONEL STICKNEY: I don't intend to be argumentative. It strikes me he has made two conflicting statements here. He said those hours are invariable and said he did conduct night training.

MR. WARD: He did not say the hours during the day were all inclusive. There might be other hours --

COLONEL STICKNEY: For your information, troops can conduct night training with dark glasses during those hours. Your objection is not sustained.

MR. WARD: Then the hours were not designated correctly. You said between 8 and 11:30 and 2 and 4, but you did not state whether it was day or night.

COLONEL STICKNEY: I want that question to stand.

MR. WARD: The objection still stands.

COLONEL STICKNEY: The objection is not sustained.

A They were conducted by seven to nine at night and they were conducted once or twice a week.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 hours on the 12th of November.

(The Commission adjourned at 1130 hours, to reconvene at 0830 hours, 12 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XXII
PAGES 1210 TO 1277 , INCL.

MANILA, P.I.

DATE: 12 November 1946

COPY NO: 1

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CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney

RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
12 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERI, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel
MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA)
T/3 TAKEO SAITO) Japanese
2d LT. TAICHI NISHIHARA)
2d LT. JAMES NAKAMURA)

FILOMENA ZOSA)
PEDRO GENOVES) Ilongo (Visayan)
MACARIO E. BELAONG)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON
GENEVIEVE A. ROBERTS

I N D I X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>EXAM. BY</u> <u>COMM.</u>
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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 12 November 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, and the prosecution, Defense Counsel Ward, the defendant and his personal interpreter, the interpreters in Japanese, and the reporter are all present in court.

At the end of the last session the defendant was on the stand and undergoing examination by the Commission. Will you remind the defendant that he is proceeding under oath already administered?

(Interpreter Nishihara so translated to the witness.)

MASAO NANJO

a witness in his own behalf, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Nitta:

EXAMINATION BY THE COMMISSION (Continued)

BY COLONEL STICKNEY:

Q Now, you are accused of committing seven war crimes and according to your testimony you are innocent of all. There may be errors in time, there may be errors in places, but in order to clear the thing up, can you tell who did commit any of these crimes?

MR. WARD: Objection. For one thing the -- I will withdraw the objection, excuse me, sir.

A I did not participate in the incidents mentioned so I cannot tell as to who did them. However, looking at the disposition of the strength and at the situation at that time, I can state the following. Concerning Specification No. 1, Sergeant Major Fujimaki was the commander of the Boroboro garrison at that time. Specification No. 2, Corporal Nakatani was in command during the absence of Takahashi. Specification No. 3, the commander of the Boroboro garrison was Sergeant Wakatsuki of the first company of the Hori unit.

The Hori unit headquarters and the Ishizuka company were stationed at Concepcion. Specification 4, same as Specification 3. Specification 5 -- as First Lieutenant Yamanouye has testified the Yamaguchi unit had already passed the area. I do not know which units passed later and therefore I cannot say.

Specification 6 and 7 -- Sergeant Wakatsuki of the Hori unit was the commander of the Boroboro garrison. According to what I have heard the garrison was under constant attack by guerrilla forces and it is natural that the Hori and the Ishizuka company should reinforce them. However, at the time of Specification 6 and 7, the Hori unit headquarters and the Ishizuka company were still not at Concepcion. According to the witness for Specification No. 7, palm trees were transported from Carmen to Boroboro. The Boroboro garrison is the responsibility of the Hori unit, and I cannot say that perhaps the Ishizuka unit was responsible for it.

Q That palm trees, could that have been coconuts?

INTERPRETER NISHIMURA: Yes, my error, it is coconuts.

Q What do you mean when you state that a corporal was the commanding officer during the absence of Captain Takahashi?

A At that time Sergeant Major Suzuki was in command of the Boroboro garrison. Captain Takahashi and myself were occupied looking for coal. During the absence of Sergeant Major Suzuki, Corporal Nakatani was in charge.

Q To your knowledge were any of the people killed, as listed in the seven Specifications, guerrillas?

A I only know the man Toriano mentioned in Specification 2.

Q To your knowledge, was he a guerrilla?

A Yes, he was a guerrilla.

Q Was he under suspicion as a guerrilla while you were the commander of the Boroboro Garrison?

A Before he was apprehended he was a suspected guerrilla. However, after thorough investigation it was found that he was a guerrilla. This was according to a report from the Kempei Tai.

Q Was he under suspicion as a guerrilla while you were at Boroboro?

MR. WARD: Objection, unless the Commission will re-word its statement. He says this is according to the report he received from the Kempei Tai. If you wish to have him know was he under suspicion himself while he was in Boroboro, that may be proper, except for the fact that it is already asked and answered in the fact that he has never heard the name Toriano. However, as to what the Kempei Tai might have had under suspicion, the question should be put directly in that regard. It is ambiguous in that extent.

COLONEL STICKNEY: I withdraw the question.

Q To your knowledge, was Toriano suspected of being a guerrilla while you were at Boroboro?

A At the time I was the commander at the garrison, the name was not familiar. I may have seen the face, but I do not remember him.

Q Had you known Demetria Villas and Cesar Lamio before they appeared on the witness stand in your case?

A I did not know the names, but I had seen the faces and I remembered them.

Q What dealings had you had with them?

A Cesar Lamio usually wore white trousers and he was usually present at cockfights at Boroboro with a cock under his arm. Demetria Villas was loading coconuts on the train.

COLONEL STICKNEY: Will the reporter read that last about the coconuts?

(The reporter read the required portion of the testimony.)

Q Are these the only connections you have had with these people?

A Yes, those are the reasons why I remember them.

Q Had you seen Purification Salon before she appeared on the stand?

A She had come together with Mrs. Beter to see me in Bacolod. I just recall one case where she came with Mrs. Beter.

Q You had only seen her that one time, is that correct?

A Yes.

Q Had you ever seen her at the meat market at Concepcion?

A I might have. However, I do not remember. The only time I remember seeing her is the one time I had mentioned before.

Q Had you ever seen Lauro Mariano?

A I cannot recall the name.

Q Before they appeared on the stand, had you seen Romana Ballesteros and Leopoldo Agravante?

✓ A Romana Ballesteros was usually lolling about the Boroboro market place. I feel as if I had seen Leopoldo ✓ Agravante, but I do not remember.

Q What dealings had you had with Romana Ballesteros?

A I had none.

Q Had you seen Primitiva Casabuena before she appeared on the witness stand?

A ✓ I believe she was selling cigarettes in the market at Boroboro.

Q Did you buy cigarettes from her?

A No.

Q What dealings did you have with her, if any?

A I had none.

Q ✓ Had you seen Natividad Dizon-Loredo before she appeared on the witness stand?

A She used to bring vegetables from the mountains to ✓ the Boroboro market.

Q Did you buy vegetables from Natividad?

A My men might have purchased vegetables from her. However, since I have nothing to do with those things, I do not know.

Q Did Natividad have authority from you to sell vegetables in Boroboro?

A I have no authority to grant her permission to sell vegetables. She sold vegetables on her own.

Q Any of these witnesses that we have named, did they obtain any papers from you of any sort?

A They might have come to the Boroboro Garrison ✓ to request for personal identification cards. However, that

would not be from me directly.

Q Did any people used to come to you directly for these cards?

A No.

Q Did Mrs. Beter come to you directly for a card?

A She requested the identification card of my men. However, she also requested that she have an interview with me.

Q What was the purpose of that interview?

MR. WARD: Objection at this time. I believe that is completely covered, sir. We have gone completely into the visits, how many times, what was covered in these visits, before yesterday. Unless there is a reason why the Commission wishes to go over all this data for the second time, it is objected to by the defense.

COLONEL STICKNEY: If my memory serves me correctly, the purpose was to get an identification card. I may be wrong.

MR. WARD: As I stated, the topic has been completely covered on previous examination.

COLONEL STICKNEY: The objection is not sustained.

A Ordinary people would just request plain identification cards. However, her husband was a tinsmith and in order to gather these sheets of tin they had to go some distance. Therefore, she requested that I write a special pass stating such a purpose.

Q And had any of these other witnesses come to you for special passes?

A No.

Q Did Marcos de Tomas come to you for a special pass?

MR. WARD: Objection, just asked and answered.
He said none of the rest of them had.

COLONEL STICKNEY: He is not one of the witnesses
we have been talking about this morning.

MR. WARD: I withdraw the objection.

A No.

Q Was Mrs. Beter released from confinement through
your interceding?

A Are you referring to the time she was apprehended by
the Kempei Tai?

Q I am asking if Mrs. Beter was ever released from con-
finement through your interceding.

A Yes.

Q Did she visit you in the hospital at your invitation?

A No, she came on her own to thank me on the day she
was released and she came several times after that.

Q Do you know how she found out you were in the hospital?

MR. WARD: Objection at this time. This part of
the question, I believe, is entirely immaterial -- how she
found out he was in the hospital. The material part would
be how she came there. Unless there is some materiality
shown by the Commission, I will withdraw my objection. Other-
wise it is completely immaterial to the cause at hand.

COLONEL STICKNEY: I withdraw the question.

MR. WARD: The objection is withdrawn.

Q Why was Mr. Beter arrested?

MR. WARD: Objection again. This is entirely

immaterial to the issues at hand. Mr. Beter is neither a witness nor has there been any testimony concerning the counts against him. His name has been mentioned once or twice, but its relevancy is nothing. Therefore, the objection by the defense is: completely immaterial at this time.

COLONEL STICKNEY: The question is withdrawn.

Q When you got to the hospital at Bacolod, where did these scratches on your shoulder come from?

A There were no scars on my shoulders, they were on my face.

Q Whence did these scratches on your face come from?

A At a point two kilometers south of the Bacolod airfield an American plane came in very low, and in order to avoid them the truck swerved and I was thrown off. Because of my condition I injured my face on the back of the truck as I fell.

Q Were you thrown off or did you --

INTERPRETER NISHIHARA: Just a minute, will you strike all that answer, please.

A I was on a truck and at a point two kilometers south of the Bacolod airfield an American plane came in low. We left the truck and because of my condition I injured my face on the back of the truck as I was getting off.

COLONEL STICKNEY: That other answer was your mistake, was it?

INTERPRETER NISHIHARA: Yes, sir, that is right.

Q What was your rank in October 1943?

A I was a probationary officer.

Q You were a probationary 2d lieutenant at that time?

A A probationary officer.

Q Was the First Company arranged in platoons at that time?

INTERPRETER NISHIHARA: Is that referring to October 1943?

COLONEL STICKNEY: October 1943.

A No, it was divided into garrisons.

Q Where had you seen Agravante before he appeared on the witness stand?

MR. WARD: Objection. It was asked and answered. He stated the face seemed familiar but he could not place where he had seen him.

COLONEL STICKNEY: I will withdraw the question.

Q Where had you seen Gil Tanique before he appeared on the witness stand?

MR. WARD: Objection again. He has also testified as to this witness, that he saw him bringing vegetables to the -- I will withdraw the objection.

A At the Boroboro garrison.

Q What dealings had you had with him there?

A I had no dealings with him. However, I knew that he was obtaining a Filipino beverage which we called tuba, and went on the trains to sell this at Bacolod. This beverage was a liquor of some kind.

Q Where had you first known Jonata, J-o-n-a-t-a?

A Are you referring to Tiburcio Jonata?

Q Yes.

A While he was at Boroboro I believe that he was either engaged in obtaining tuba or he was a vegetable broker.

Q Had you given Gil Tanique any special card?

A No.

Q Where had you first known Tomas?

A I do not know him.

Q You know who I am referring to, do you, Tomas?

A I believe you are referring to Tomas de Marcos.

Q Marcos de Tomas. When did you first see Toriano?

MR. WARD: Objection again. This has been covered, I think, twice. Now, he has stated thoroughly both on direct and cross-examination, and I believe to the Commissioner, that he first saw Toriano when he was brought, I believe, on this expedition to Boroboro where they were with thirty men, including Captain Takahashi, and they tried to take, or did take, a couple of Huks at that time.

COLONEL STICKNEY: That isn't my memory. Your objection is not sustained.

A The first time I saw him was when he came together with Takahashi at the time of the expedition. I may have seen him before that, but I do not remember.

Q Do you know the time?

MR. WARD: Objection again as asked and answered once before. It was asked and he said he was not sure, but it was at the end of June.

COLONEL STICKNEY: Objection not sustained.

A Are you referring to the day the company went on the expedition?

Q I am referring to the first day you saw Toriano so far as you remember.

A That was the day the Takahashi unit went on the expedition, and I believe it was around the second of July.

Q How many days was that following the visit of Mrs. Beter to your headquarters at Bacolod?

A My recollection is not certain. However, I believe that it was about a week after.

Q How long before Mrs. Beter's visit to your headquarters was it that you had read on the bulletin board about Toriano?

A Two or three days before.

Q When did you last see Toriano?

A On the morning of the 4th of July, that is approximate.

Q And when was Toriano killed?

A I believe about the 4th.

Q The same day?

A Yes.

Q What time that day did you last see him?

X A About 2:30 or 3 A.M. on the morning of the 4th.

Q Where was he at the time?

A At the Boroboro garrison.

Q Was he a prisoner there?

X A Yes, he was a prisoner because it was found out that he was a guerrilla.

Q Was he tied?

✓ A A rope was passed through his belt and he was tied to a tree with the rope.

Q Was he guarded or was there a sentinel placed over him or anything like that?

A Yes.

Q Is that the place where he was killed?

A I do not know where he was killed.

Q What time was he killed?

A I do not know.

Q Who killed him?

✓ A I do not know who killed him, but Corporal Nakatani was in command during that time.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Will you remind the witness that he is still under oath?

(Interpreter Nitta translated to the witness.)

Q Now, the first that you knew Toriano was when you read it on the battalion bulletin board, is that correct?

A The first time I saw Toriano's name was on the Kempei Tai's intelligence report.

Q And this was signed by an officer of the Kempei Tai at Bacolod, is that correct?

MR. WARD: Objection. I think we have gone over this whole thing as to the report, as to its being signed, and its --

COLONEL STICKNEY: The question is withdrawn.

Q What did you read on that bulletin board about Toriano?

MR. WARD: Objection again. Again, this has been asked and answered. He has already testified what the Kempei Tai related to the men. In fact, it is already underlined in lead pencil.

COLONEL STICKNEY: Omitting any reference to lead pencil, the objection is not sustained and the question will be answered.

A As I testified on previous days, the report stated that Toriano was a meat dealer and that he was supplying meat to the guerrillas and also information about the Japanese Army.

Q And was that all that it said?

A That was all there was to the first report which came from the Kempei Tai.

Q How many reports were there?

A Twice.

Q When did the second report come out?

A The second report came about two or three days before we set out on the expedition.

Q Was the second report in the nature of a numbered intelligence report, similar to the first?

A On the second report there was only what Toriano had testified during the investigation.

Q And what was that?

A On the Imbang River, six to seven kilometers east of San Fernando, it stated that there were three guerrilla barracks within an area of a fifty-meter diameter. In these barracks were thirty or forty guerrillas under the command of a first lieutenant. Their armament consisted of approximately two automatic rifles and approximately twenty rifles. On the last page of the report was a sketch of that area.

Q Was that the entire report?

MR. WARD: Objection ---

A Yes.

MR. WARD: I withdraw the objection. For the purpose of clarification, would it not be better to state this is an entire report as to the Toriano incident? That was the purpose of the objection.

COLONEL STICKNEY: You have withdrawn the objection, is that correct?

MR. WARD: Withdrawn.

Q Was this report a battalion report or a Bacolod Kempei Tai report?

A It was a report from the Bacolod Kempei Tai.

Q Signed by an officer from that headquarters, is that correct?

A Yes.

Q And was this true of the first report also?

A Yes.

Q Neither one of these was a battalion report, is that right?

A No, they were Kempei Tai reports.

Q The first report, did that call for any action by the first company?

A It was just an intelligence report for the information of the Takahashi unit.

Q And it did not call for any action, is that correct?

A The Kempei Tai has no authority to order any action.

Q And any pencil marks that had been added by others did not call for action either?

MR. WARD: Objection. "To his knowledge" should be added to that last question.

COLONEL STICKNEY: The objection is not sustained.

A No, there was no pencil mark requesting action.

✓ However, there was a red ink mark saying "Takahashi unit."

Q When Mrs. Beter came two or three days later, had you at that time received any further information about Toriano?

A No. Mrs. Beter just asked me to intercede in Toriano's behalf.

Q What did you tell her?

A I cannot recall exactly what I said at that time, but I believe that I told her that I cannot do anything since Toriano had been arrested by the Kempei Tai and we had just received an intelligence report on him.

Q When and how did you first learn that Toriano had been arrested?

MR. WARD: Objection. This has been asked and answered the third time now, in that he states the intelligence report was the reason he knew he had been arrested. Asked and answered.

COLONEL STICKNEY: As I recall, this witness was asked, "When did you first learn of Toriano?" and he answered, "The first time I heard of Toriano's name was when I saw the name on the bulletin board." I do not recall the nature of the arrest being mentioned.

MR. WARD: I believe in his testimony as to what he stated the intelligence report contained was that he was arrested.

COLONEL STICKNEY: The easiest way to progress here is to overrule your objection.

MR. WARD: In this instance I wish to remind the Commission that it is quite possible a question can be considered asked and answered although the exact

question in words has not been given before. In other words, the Commission has not the right to reword the question various ways and say this question has not been asked and answered because it states the same question just a little different way. The Commission has been doing that in this instance. The first day I did not object to any question that the Commission gave or asked. I am objecting today, because there is an attempt of extreme cross-examination on the same points, going over and over the same questions again. At this time I will withhold many of my objections, as I wish this defendant to show to the Court or Commission that he is doing his level best to answer the questions of the Commission. The Commission can have as broad a latitude from now on as it wishes to reword or ask any questions it likes.

COLONEL STICKNEY: What you do is of no particular interest to the Commission. You may continue to represent the accused as you see best. May we hear the answer to the question?

A The first time I knew that Toriano had actually been arrested was when Mrs. Beter came to Bacolod.

Q And you learned from her, is that correct?

A Yes.

Q Did she tell you who had made the arrest?

A No.

Q Did Mrs. Toriano tell you who had made the arrest?

A I believe that Mrs. Toriano said the arrest was made by Suzuki.

Q You did not assume that the Kempei Tai had made the arrest, is that correct?

MR. WARD: Objection. Asking for a conclusion.

COLONEL STICKNEY: I withdraw the question.

I have no further questions.

BY COLONEL MacKINTOSH:

Q Did you ever visit Mrs. Beter at her home?

A Yes.

Q For what purpose?

A At the time Mrs. Beter came to ask me for the special permit, she asked that I come to her home and see what type of family she had and also to see for myself what business she was in. On the way back from an inspection of the water-pipe line. I visited her home.

Q Did you visit her home more than once?

A Yes.

Q How many times?

A I cannot recall clearly but I believe I visited her home about three or four times.

Q Do you know whether or not any of your soldiers visited Mrs. Beter's home?

A On the occasion that I visited her home some of my subordinates accompanied me. Otherwise, I do not believe the subordinates, my soldiers, visited her home alone.

Q While you were garrison commander at Boroboro, did you send out patrols?

A Where to?

Q To the neighboring country.

A The only time we sent out a patrol was when we went to make a map of the vicinity. The other time I sent out a patrol was when plans had been made to pipe the water from a place called Pokaru-Pokaru, about two and one-half kilometers from Boroboro in the south easterly direction. We went to make an investigation whether that was possible.

Q What were your orders as to the treatment of Filipinos, civilians, suspected guerrillas, and known guerrillas?

A My instructions concerning the Filipinos at that time were to treat civilians kindly, and that all suspected guerrillas and guerrillas were to be sent to the company headquarters. Before that there had been a standing order that guerrillas were to be disposed of as garrison commanders saw fit. That order came out about October, 1943.

Q Which order came out in October, 1943?

INTERPRETER NITTA: The last one?

COLONEL MacKINTOSH: The last one.

INTERPRETER NITTA: Yes.

Q Who issued the last order?

A That order was issued by the battalion headquarters and had come down through the company headquarters to the Boroboro Garrison. We just had records of such an order at Boroboro.

Q While you were commander of the Boroboro Garrison, were any Filipinos taken into custody by the garrison?

A No.

BY MAJOR FRITZ:

Q While you were a garrison commander at Boroboro, were any requests transmitted to you from the Kempei Tai to arrest any civilians?

A No.

Q While you were garrison commander at Boroboro, were any requests transmitted to you through your company headquarters?

INTERPRETER NITTA: Does that mean the request for arrest?

MAJOR FRITZ: Let me re-ask that question.

Q While you were garrison commander at Boroboro, were any requests to arrest civilians transmitted to you through your company headquarters?

A No.

Q While you were at company headquarters were you sent by your commanding officer to any place to arrest anyone?

MR. WARD: At this time may I ask that the date be more specific in that?

Q At any time that you were not garrison commander at Boroboro, were you sent by your commanding officer to arrest anyone?

MR. WARD: Then there is an objection unless it is specified as to January, 1944, April, 1944, or the time in which the question is.

MAJOR FRITZ: At any time that he was not garrison commander.

MR. WARD: I know. The objection is that it be framed to include within the count of the specification any time prior to January, 1944, or after April, 1945, is the basis of my objection.

MAJOR FRITZ: O. K.

INTERPRETER NITTA: Does that mean that the major is going to ask the same question by just incorporating the year or after in that question?

MAJOR FRITZ: I will re-ask the question.

Q During the period January, 1944, until April, 1945, excluding the time you were garrison commander, were you sent by your company headquarters to arrest anyone?

A No, there was no such orders for me to arrest anyone.

MAJOR FRITZ: No further questions.

BY MAJOR HERR:

Q With the exception of the time you were at Boroboro on duty, you were training officer during your period of duty in Negros all the time?

A Yes.

Q Did you train the battalion or the company?

A The company.

MAJOR HERR: That is all.

COLONEL STICKNEY: The Commission will take a ten minute recess.

(Short recess)

COLONEL STICKNEY: The Commission is in session.
No further questions from the Commission.

MR. WARD: No further questions from the defense.

MR. AITKEN: No further questions.

COLONEL STICKNEY: The witness is excused.

(Witness excused)

MR. AITKEN: If the Commission please, with the consent of the Commission and of the defense, I would like to put two doctors that we have brought down from Fort McKinley, and who are very busy men out there, on the stand with reference to X-Ray and examination of it, and its results -- X-Rays of the defendant's leg. We would like to put them on out of order so they can get back to their duties and without undue delay. They will be a part, of course, of the prosecution's rebuttal evidence, and it is an advantage to that extent to the defense.

MR. WARD: It is perfectly satisfactory with the defense, except the fact that we have seen no X-Rays and we would like the opportunity of being able to recall either or both of these witnesses after we have had a chance to consult with our physicians.

COLONEL STICKNEY: There being no objection, it is so ordered.

MR. AITKEN: I think, we will put Lieutenant Lewis on first.

Lt. SANFORD M. LEWIS

a witness for the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. AITKEN:

Q What is your name?

A Lieutenant Sanford M. Lewis.

Q Your occupation?

A Physician.

Q And your present station?

A 4th General Hospital, Chief of X-Ray service.

Q Will you state briefly what your medical education has been, unless you are willing to stipulate that he is a qualified medical man in the United States Army and qualified and experienced in taking X-Ray pictures.

MR. WARD: Is the testimony of this doctor, Dr. Lewis, merely to expedite the entrance of X-Rays into evidence as to the taking of the X-Rays?

MR. AITKEN: And in addition to that he will tell his own results.

MR. WARD: It is stipulated as to the doctor's qualification, except as we would like some qualification as to X-Ray.

Q How long have you been in your present position?

A Three months, approximately?

Q And will you state what your qualifications with reference to the taking of X-Ray pictures are, and reading of the same?

A The taking of X-Ray pictures does not enter into the picture. That is done by the technician. It is the interpretation that counts. After finishing my internship I took specialized training in X-Ray diagnosis for a period of nine months before entering the army.

Q Where did you take this training?

A Newark, New Jersey.

Q Have you recently taken an X-Ray picture of the defendant, Masao Nanjo?

A I have.

Q Have you that with you?

A I do.

Q Will you produce it please?

A (Witness produced X-Ray pictures.)

Q Now, after having had that picture taken, did you make a study of it?

A I did.

Q What did you find?

A Shall I put this in lay terms?

Q In as lay terms as the best you can so that we can all understand it.

A Well, there is a defect in the tibia, which is the large bone of the lower leg, which would seem to have been caused by a penetrating missile, besides this circular defect there is no other evidence of fracture. In other words, except for this circular hole in the middle of the shaft of the bone there is no other injury to the bone.

Q If any person were shot with a 6.5 millimeter weapon,

calibered weapon, that is to say a Japanese pistol, the bullet hitting in the back of the leg as indicated, is that indicated in the picture?

A I could not say where the bullet hit from the picture.

Q And coming out the front of the leg here (indicating) there being no special complications, how long would you say that it would take for the ordinary healing process to complete itself?

MR. WARD: Objection at this time on the grounds that an improper opinion or conclusion is asked of the doctor in this regard. That sufficient facts have not been added to get a proper diagnosis or conclusion. In other words, we are objecting to the fact that the locality, the climate, the area in the world, the possible malnutrition, should be added to that question to make it a proper question at this time for a possible opinion.

MR. AITKEN: There is no evidence in here of malnutrition, but I will add to the hypothetical question these facts --

MR. WARD: Just one second. As to the evidence of malnutrition, or testimony to that effect, Dr. Konda stated that he made such a diagnosis, and stated because of the fact there was malnutrition, not proper foods, I think he terms it, it took actually longer to heal than he had concluded at the offset. Therefore, there is testimony of malnutrition present.

MR. AITKEN: I will add to the question that the person was shot accidentally in the island of Negros,

in this tropical climate, that he was taken in a truck to a hospital within a half hour after the shooting, that his wound was attended to at the time and a gauze called a German name, a medicinal gauze used, and applied; that the wound was a clean wound through the muscles of the leg, through the tibia and the point of entrance and exit as shown (indicating), and that there was no fracture of the bone, the person shot was an officer in the Japanese service, and for the purpose of the question we will assume that the person shot was not too well fed -- I think that will cover it all.

MR. WARD: Objection to the fact as to the conclusion of counsel, or statement of the diagnosis of the wound, that part of the question should be related to the X-Ray, of which the doctor is an authority.

COLONEL STICKNEY: As I understand it, you still have an objection?

MR. WARD: Counsel has placed before the doctor an x-ray which the doctor has taken and in his question he is relating the type of wound. The conclusion of the doctor should be based as to the conditions as set forth by counsel, but the rest of the conclusion based on the type of wound. At this time I would like for the assistance of the doctor -- allow him to examine the defendant's leg or he has already done so, and that might facilitate such opinionated testimony.

COLONEL STICKNEY: I don't get clearly what your objection is.

MR. WARD: The objection again is that counsel is stating the type of wound, where it entered, what part of the bone it injured, and so forth. We have the x-rays for that. Counsel's question cannot be answered or may not possibly be answered, in view of that x-ray. As to the conditions, he may set them forth and refer again to the type of wound by referring to the x-ray and not to his own statement as to what occurred.

COLONEL STICKNEY: The objection is not sustained.

Q May I add to the question now also that the testimony has shown that the gauze was called a libinal gauze.

A I can testify only on the basis of this x-ray picture and on the basis of what the bone involved shows.

The facts given as to the nature of the soft tissue injury don't appear on the x-ray and therefore I can't give any interpretation of that. I can merely say that on the basis of a wound such as this, if there were no other complicating factors, just a short period of time, perhaps two or three weeks, would be required to put this man back on his feet and walking around comfortably, because there is no fracture in the ordinary sense in this bone. There are any number of possible complications, of course, of which I can't say a word on the basis of this x-ray that might keep this man in bed any period of time.

MR. AITKEN: That is all so far as Dr. Lewis is concerned. I have Dr. May

COLONEL STICKNEY: Any cross-examination by the defense?

CROSS-EXAMINATION

BY MR. SCHAUER:

Q Your answer to the last question as asked by Mr. Aitken is based solely upon the nature of the bone as it appears in the x-ray, without relating to any flesh injury or any infection that might have occurred, so far as the flesh is concerned?

A This x-ray was taken a long period of time after the wound was incurred. There is absolutely no evidence as to flesh injury on the x-ray.

Q Assuming that the wound or that the injury occurred about the 6th of December of 1944, would the

lapse of time between that date and the date the x-ray was taken make any difference, so far as showing the nature of the wound or the injury to the bone?

A Not in showing the injury to the bone. Any further injury than as I have described would be manifested over this period of time.

Q Even though there would be complete healing, there would be lines indicating a fracture?

A Yes, there would be lines of healing.

Q Would the fact that there had been an insufficient amount of calcium in a person's diet over a period of time have any relation to healing of such a wound?

A There is a definite relationship.

MR. SCHAUER: That is all.

COLONEL STICKNEY: Just a moment. A member of the Commission has a question.

EXAMINATION BY THE COMMISSION

BY COLONEL MacKINTOSH:

Q Would an x-ray of the type you have there show any evidence of bone infection, had it been present?

A Usually if there had been any evidence of bone infection, we would be able to see it on the x-ray.

COLONEL STICKNEY: Nothing further from the defense?

CROSS-EXAMINATION (Continued)

BY MR. SCHAUER:

Q You say "usually," Doctor. Does that mean it is possible for an infection to have been present and yet not show up on the x-ray picture?

A That is something which the doctor always has to deal with. There is no such thing as absolute medicine. It is conceivable for an infection to have been present and not show up in an x-ray picture, but it is not usual.

Q Even though there has been a lapse of time, such as there has been in this case?

A Yes.

COLONEL STICKNEY: Anything from the prosecution?

MR. AITKEN: Nothing further.

MR. WARD: At this time, if counsel wishes, we will stipulate that the testimony of this doctor will be the same as the last.

MR. AITKEN: No, this doctor is a bone specialist.

VIRGIL ROBERT MAY

a witness for the prosecution, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. AITKEN:

Q Will you state your name?

A Virgil Robert May.

Q Your present occupation or station?

A Chief of Orthopedic Service, 4th General.

Q What is your medical education, Doctor?

A Medical College of Virginia; nine months internship, eighteen months orthopedic speciality at Guthrie Clinic, in Robert Packer Hospital.

Q How many years does this medical training up to the present date include?

A Three and a half years of medical school, twenty-seven months of internship and residency and five months of orthopedic service at the 4th General.

Q Orthopedic work has to do with the bones of the human body, has it not?

A Yes.

Q And you are now at the 4th Division Hospital?

A 4th General Hospital.

Q At Fort McKinley?

A Yes, sir.

Q And doing orthopedic work?

A Yes, sir.

Q As a specialty?

A Yes, sir.

Q Have you examined the x-ray shown by the witness who just preceded you?

A Yes.

Q Assuming that the subject whose x-ray was taken was an officer in the Japanese army, a young man of twenty-seven years of age at the time, was shot by a Japanese pistol bullet, the shot entering the rear part of the calf of the leg and exiting at the front and penetrating the bone cleanly, that he was taken to the hospital by a truck within half an hour after the shooting and received medical treatment, and liberal gauze was applied to the wound, and he was then hospitalized -- you can also assume at the time that the Japanese forces were not getting as good nutrition as people should ordinarily get -- now, the first question I will ask you is: Would the wound at the time he received it necessarily stop him from locomotion?

A So far as his bone structure is concerned, it would not. As I read the x-ray I see only a penetrating hole through the bone, a small penetrating hole which would not interfere with the weight-bearing structure of the bone in particular.

Q After being treated at the hospital, within what period of time would you say the person with that nature of wound would be able to walk?

A Disregarding any complications that might have set in, the man should be able to walk immediately upon the injury.

Q And there being a lack of complications that we know of, when should he be dehospitalized?

A The policy of the American army is to hospitalize

them until they are completely healed. I don't know what the Japanese army policy was.

Q Would the person necessarily be confined to his bed during this period of time?

A No, sir.

Q Would it be normal procedure for him to become an outpatient?

A In the American army he would not become an outpatient; he would become an ambulatory patient.

Q Explain to us what you mean by "ambulatory patient."

A Ambulatory patient means a patient who is not bedridden. He is allowed to go to the mess, allowed to go to the latrine, allowed to do chores in the ward.

Q In other words, he could walk about and probably limp a bit?

A Yes, sir.

Q Do you think it would be within the bounds of normalcy for a person to be incapacitated with that wound as shown there for a period anything like three months?

A I can't see how this wound, disregarding complications -- the wound is such, as we see it on the x-ray, that I don't see why he should be hospitalized for a period of three months.

Q Do you think he would be able to get about in two weeks?

A Yes, sir. This man would be able to walk in two weeks, disregarding complications.

MR. AITKEN: Your witness.

CROSS-EXAMINATION

BY MR. WARD:

Q You state you have been in this theater of operations for approximately five months, Doctor?

A Yes, sir.

Q And you are engaged in this type of work -- that is, the study of bone structure?

A Yes.

Q Have you seen a similar wound as this in this period?

A I have.

Q And the type of wound would be a bullet wound?

A It was a bullet wound, yes.

Q That perforated the leg, such as this?

A It perforated the soft tissue and penetrated the upper tibia, similar to this.

Q What type of flesh wound did it cause?

A A clean perforating type.

Q What type of treatment was given?

A On admission, the debridment and irrigation, a plain gauze ace bandage. That is all.

Q Did they use any sulphur?

A We used penicillin.

Q Would that aid the development of bone structure?

A No, no aid in the development of bone structure.

As a prophylaxis against possible infection.

Q That is standard treatment, to give penicillin, in this theater?

A Yes.

Q What is the likelihood of skin infection without the use of penicillin in this theater?

A It is a very difficult question. A doctor can't be absolute.

Q The reason for the question is the wound of the type you testified to a minute before received no such treatment and he was on a tropical island. Are you familiar with Negros Island?

A No.

Q What is the relative value of calcium in the diet affecting the healing of the bone?

A An adequate supply of calcium is necessary to the healing of bone. However, in order to heal a broken bone, if the diet is not sufficient, the body will draw from another source of the bones. That is seen very frequently in pregnancy: the fetus will get its supply of calcium from the mother's bones.

Q Stating that the patient had been deficient in calcium diet for a period of time, what would be the effect on the healing of a wound such as this?

A It would be slower -- prolonged.

Q Would a person incapacitated with such a diet over a period of time still be an ambulatory patient?

A Yes, because the weight-bearing structure, which is an important portion of the bone, is not affected at all.

Q Can you tell us accurately as to what muscles might have been injured by the passage of this bullet?

A The possibility of the gastrocnemius and the soleus.

Q Would injury to either of these muscles prevent the patient from being ambulatory?

A Depending on what extent they were injured.

Q Stating they were injured by a bullet such as that, and to the best of your diagnosis, could such a patient be hospitalized and be a bed patient?

A Yes, he could be hospitalized and be a bed patient.

Q What would be a result of a flesh infection around the edge of this wound?

A The result would be prolonged healing. That would be the only permanent effect.

Q Would such a flesh infection prevent a patient from being ambulatory?

A A flesh infection would not.

Q Would such a person with a wound such as this require assistance while walking, such as a cane or crutches?

A For his comfort, yes.

Q You stated that in the American army it is the policy to hospitalize until completely healed. Would that mean they would be attached to either the hospital or dispensary until the complete flesh wound had healed or the bone tissue?

A Until the complete flesh wound had healed and the bone wound.

Q Stating that you had such a patient and you were not able to take an x-ray of the wound, but would merely

by probes ascertain the damage that had been done, would you allow such a patient to be ambulatory, or would you confine him to bed for a period of time?

A He would be confined to bed for approximately a week, I would say, depending on how the patient himself felt, if we didn't have the equipment to evaluate his condition.

Q Stating, in addition to those facts you have just mentioned, that it was within your knowledge that the patient had had to use that leg for a brief time -- in this instance we will state while descending from a truck, while in fear of being strafed from an overhead plane -- would that affect your decision at all?

A Will you repeat the question?

Q Stating you had no x-ray, you probed and saw the damage; then add to that information that you knew the patient had had to use that leg while descending from a truck while in fear of being strafed by a plane -- in other words, it was aggravated use of that leg -- would that affect your decision as to the ambulatory character of the wound?

A I don't quite get the question. In other words, if he had to get off a truck with a wound like this?

Q You have that wound, but no x-ray to ascertain its absolute character, but you knew a rather severe use or aggravated use had been made of that leg after it was wounded, would that affect your diagnosis or immediate care of the patient?

A No, I would go entirely -- providing we have no way

of ascertaining the severity of the wound, such as an x-ray -- I would depend entirely upon the well-feeling of the patient himself.

COLONEL STICKNEY: The Commission will adjourn and reconvene at 1300 hours.

(The Commission adjourned at 1130 hours, to reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission met, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the defense attorneys, the defendant and his personal interpreter, the two interpreters in Japanese, and the reporter are all present in court. Lieutenant May will you take the stand?

You are reminded that you are still under oath.

VIRGIL ROBERT HAY

a witness for the prosecution, having been previously duly sworn, testified further as follows:

CROSS-EXAMINATION (Cont'd)

BY MR. WARD:

Q If, at the time you saw such a wound as you formerly testified, and you saw pus or matter, foreign matter, coming from such a wound, what would be your diagnosis as to infection?

A The wound would be infected, that would be the diagnosis.

Q Would that delay the healing of either the flesh part of the wound or of the bone, or both?

A Yes.

Q Without an X-ray how accurately would you be able to tell whether or not there was a slight fissure or fracture of the bone itself caused by such an injury?

A You could not tell accurately without an X-ray.

Q Would that be the reason, as you formerly testified, you would keep a man in bed for a period of time?

A You would have to rely on the appearance of the wound, you would have to rely on the well-being of the patient.

Q Those would be material factors, is that correct?

A Yes.

Q Have you ever had any Japanese patients?

A Yes.

Q Were they in good physical condition, or poor?

A Good physical condition.

Q Have you ever had a Japanese in reasonably poor physical condition?

A Yes.

Q Of these Japanese, have they ever had a flesh wound?

A I beg your pardon?

Q Of these Japanese, have they been in poor physical condition, were any of them suffering from flesh wounds?

A Yes.

Q What was the relative time that it took those flesh wounds to heal, compared to those Japanese that were in reasonably good condition?

A These Japanese I have seen have been in poor condition due to the injury.

Q Were any of them suffering from malnutrition at all?

A No.

Q Have you ever taken care of a Japanese suffering in any form of malnutrition for any type of a flesh wound?

A No.

Q Stating now that you had a man suffering, at least slightly from malnutrition with such a wound as we have here, no X-ray, how soon would you allow that man to walk, keeping in mind of course that there may or may not be a fracture, or is that impossible to give an opinion?

A I would rely on the well-being of the patient -- how well he feels.

Q Yes, and at this time if you were not able to see such a man -- you could not give a proper opinion, is that right?

A That is right.

Q Are the flesh wounds as well as those wounds to the bone dependent upon proper diet as to their healing?

A It is a factor.

Q Stating that a patient had for a considerable period of time been on a diet of this: rice, potatoes, pumpkins, the leaf of a potato, and a little fish once in a while, all in very reasonably small quantities, would your opinion as to the length of time of healing of the bone and the flesh differ from the last opinion you gave -- remembering also there is no penicillin?

A You say "reasonably small quantities"?

Q Not sufficient to satiate any amount of hunger.

A I can't answer that question.

Q I was referring -- I was making a comparison between your opinion a little while ago where you stated that such a man might be incapacitated for maybe a week or two and be able to walk, you are referring I imagine to a patient in one of our American hospitals under our diets. I wanted to know whether it would be possible to make a diagnosis for a Japanese under the diet I have just mentioned, which had been in insufficient quantities, as to the healing of the type of wound such as we have here, and your answer is "It would be impossible to tell".

A I have never been in such circumstances with a patient.

Q What length of time would such a bone injury heal in, in the United States, under our temperate climate in the United States?

A The flesh should be healed provided there are no complications, should be healed flesh, I would say, within three weeks.

Q What is the effect of tropical climate, that is the heat and humidity?

A I don't think it has any bearing on it.

Q The healing in this climate of skin infections and wounds is just as rapid as it is in the United States?

A I think so, yes.

Q At this time I would like to show you the wound of the defendant again and ask you if it would be possible to tell whether there had been any infection or complications from the looks of the wound at this time. You may come up and examine it.

(Witness examines leg of defendant.)

Q Could you tell from examining that wound whether or not there had been any skin infection at the time?

A I can't tell.

Q At this time I would like to ask you what weight you would give to your own testimony appearing before such a Commission, in your own opinion now, with these points in mind, the fact that the wound is two years old and that you never saw the actual wound other than the healed one you have just visualized, you don't know the physical condition of the patient at the time, that there was no penicillin, that the evidence of malnutrition is unknown, that this was war-time and in an area under fire, the patient was Japanese, that you have no knowledge of the possible complications and there is no way of diagnosing any complications at this time, that you are not reasonably familiar with the climate -- as this was in Negroes and you mentioned you have never been there -- and that the medical care given the patient and the wound at that time has been reasonably scantily sketched; the question again is, what weight would you give your own testimony at this time as to such a wound at that time? Do you follow that question?

A No I do not quite.

Q What I wish to know is what is your own opinion, what weight would you give to your own testimony at this time when all of these facts are unknown?

A As to the ability of the man to walk?

Q To walk, the healing of the wound, etc.

A I would consider him able to, from looking at the X-ray and the present wound now, I would consider him able to walk within a week after the initial injury.

Q In view of the facts you do not know?

A In view of the fact I do not know if there were any complications or not. If there were, I would have to change my statement. Provided there were no complications and just the clean wound through the bone at examination of the scar as it is now, I would say this man would be able to walk after the initial injury, approximately within a week.

Q Would you have the man walking that week, if you had a patient under the circumstances, walking within a week?

A I haven't, no.

Q How long would you have him in bed?

A I would have him in bed until at least two or three weeks.

Q And at that time you would again survey the wound?

A Yes.

Q And find out your opinion would be different, is that right?

A I would again survey the wound, yes, and if healing has progressed, I see no reason why he should not be made ambulatory.

Q Now, viewing of course, the seven or eight unknown factors and the possibility of complications, and we have no knowledge at this time, would you say now that with such a wound the man might not be hospitalized for two, three or four months?

A Yes. He may not be hospitalized for that long with a wound of that nature.

Q In view of the facts you now know none of these unknown factors?

A That is right.

MR. WARD: No further questions.

COLONEL STICKNEY: Any redirect examination?

MR. AITKEN: Yes.

REDIRECT EXAMINATION

BY MR. AITKEN:

Q There has been some talk here with reference to a lack of calcium for the patient, what effect if any would a deficiency in calcium in the diet have on the healing of that bone structure or the strength of it?

A The healing would be prolonged.

Q Would that affect the ability to walk on it?

A No.

Q Does the perforation in a bone which has been injured in that way become filled up?

A Never -- it may never become filled up.

Q It does not fill up with bone-structure?

A It would heal up with scar tissue.

Q It would heal up with scar tissue -- has that any effect on the weight-bearing ability of the bone?

A No, sir.

MR. AITKEN: That is all.

COLONEL STICKNEY: Any recross-examination?

MR. WARD: Yes.

RECROSS-EXAMINATION

BY MR. WARD:

Q Such a wound as we have described here, that would be very painful, would it not -- could be very painful?

A It could be serious.

Q The diet I gave you a few minutes ago, as to rice, potatoes, pumpkins, the leaf of the potato, a little fish once in a while, how much calcium is in such a diet?

A It is difficult to answer that question because I do not know the relative values of potato in calcium, and fish.

Q Would that be a reasonably well-balanced diet?

A You mentioned a well-balanced diet?

Q Yes.

A What do you mean by balanced?

Q Was that the proper nutrition, would that be properly balanced as to the nutritional value?

A As to any nutrition? Yes.

Q As given in hospitals now for the recovery?

A In the American hospitals it is not an adequate diet.

Q Could you estimate the results of such a diet?

A I could not estimate the results of the diet.

Q Would it be possible for one that has been under a diet such as this for a period of time, to take longer recovery than under a more recognized diet?

A I don't know that answer.

MR. WARD: No further questions.

MR. AITKEN: I have one further question. I would like to ask.

FURTHER REDIRECT EXAMINATION

BY MR. AITKEN:

Q In counsel's assumption of certain matters which apparently do not appear, he mentioned that assuming no infection of flesh or bone, is it necessary under the circumstances as shown by examination and by the X-ray to assume that there has been no infection of the bone?

A I can't assume there has been no infection.

Q If there had been an infection of the bone wouldn't the X-ray and later examination indicate that?

A It could, it could indicate it, depending on the amount of infection that was present.

Q Nothing you have seen either in this X-ray or in your examination would indicate there had been an infection of the bone, is that it?

A There may have been infection, I can't tell.

MR. AITKEN: That is all.

COLONEL STICKNEY: Questions by the Commission?

MR. WARD: I have one further question.

COLONEL STICKNEY: I have a couple of questions.

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q In a wound such as we have in mind in here, from the examination of the leg of the accused, would an X-ray of that leg show what might cause a swelling of the leg?

A The reaction to the wound, a flesh reaction to the wound, in inflammatory reaction.

Q Could that be caused by malnutrition?

A No, sir, that would be a normal reaction.

Q Now, with a wound of this nature, assuming it has been contacted in early December of one year, what possible features might make it difficult for the patient in the early April following, to draw the injured leg up beside the good leg with difficulty in March?

A I can see no reason that he should not be able to draw his leg up.

Q Would there be possible complications that would make it necessary for him to walk in a halting and limping way, advancing first his good leg and then drawing up the bad leg beside it and proceeding again the same way?

A Provided there were no complications such as infection, pain would be the only factor to make him slow in his pace.

Q What complications -- is it complication of the bone, or complication of the flesh that might?

A I would say a complication of the bone.

Q And would a complication that resulted in that difficulty show in the X-ray?

A Depending on the severity of the complication, I think it would.

Q If there were such a complication that having happened in early December that the man had to walk with a decided limp and in a halting manner, that should show in the X-ray, is that correct?

A If you say that he was limping four months after the initial injury, I would think it would be due to the possibility of a low-grade infection which would involve the bone and that should at that time -- I will put it this

way, that may at that time cause pain, and if the infection was there then four months after the initial injury you should have evidence of the initial injury.

Q Do you see that evidence now?

A You should have it, but I can see no evidence of infection now.

COLONEL STICKNEY: I have no further questions. There seem to be no further questions. Do you have something further?

MR. WARD: Yes.

FURTHER RECROSS-EXAMINATION

BY MR. WARD:

Q You stated it might be pain that would cause such limping, is that correct?

A Yes.

Q Would it be possible that such an injury, that the bullet when entering or leaving, could have struck or paralyzed some muscle thus incapacitating the movement of his leg?

A It would not incapacitate the movement of the leg, no.

Q Would it hinder it at all?

A In that area, I would say not, in that area I would say not.

Q Would there be sufficient pain at that time that a person would favor the leg and therefore walk haltingly?

A Yes.

Q Calling your attention now to the area around the hole (examining the X-ray), more specifically to the area just without the perforation itself being slightly --

MR. AITKEN: As shown by the X-ray pictures.

MR. WARD: As shown by the X-ray pictures.

Q And referring to the light color in the X-ray in relation to the bone, what would cause that?

A An absence of bone.

Q Then the perforation or hole as shown there is actually much larger than the little dark circle is, then it includes all the lighter color?

A No. The absence of bone is a translucent area, that dark area.

Q And the slightly off-shade just around that dark area?

A That is formation of new bone.

Q And that, of course, depends on the amount of calcium in the diet, is that not correct?

A No.

Q What would that depend on?

A It would depend on how much calcium he has in his blood stream.

Q And if a person had been using a diet in which there was very little calcium, would that slow down the process of creating this new bone tissue?

A It would tend to slow it down, yes.

Q Would there be any relation to that and the amount of pain or amount of infection that might set in?

A I would say not.

Q That slightly different area, referring to now as new bone tissue, couldn't that have possibly included at one time a low-grade bone infection?

A It could have.

Q And it would be almost impossible now to tell that the new tissue has formed, whether or not there was infection there at that time?

A Yes, you could not tell from this plate whether there was gross infection at one time or not.

Q But there could have been minor infection which would now be covered up by that new bone structure?

A Yes.

MR. AITKEN: One more question.

FURTHER REDIRECT EXAMINATION

BY MR. AITKEN:

Q Lieutenant, if a person had a calcium deficiency in his -- systematic deficiency in the blood stream, would not that show up in the bone structure there?

MR. SCHAUER: I object to that as leading and suggestive. I think you are leading your own witness now.

MR. AITKEN: I am talking to an expert witness here and we usually consider they are not so easily led as all that, but I will change the question.

Q If a person had a calcium deficiency in his blood stream, would that show up in his normal bone structure?

A Depending on how much deficiency he would have eventually, it will.

Q Is there anything indicated in the X-ray of this defendant that would indicate any deficiency in the blood stream?

A This plate would not. No, there is none on this plate.

Q How does the bone structure as shown by this particular plate compare with a normal bone structure?

A It compares with normal bone structure as any bone would show.

MR. AITKEN: That is all.

M. WARD: That is all.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q If the patient were a young man, actively engaged daily as company training officer, would that give him a good chance toward recovery without complication in this case?

A I don't think it would have any bearing.

Q Will you please get up and take a few steps across here showing how the patient should be able to walk after four months from the date of the injury?

A (Witness walks across room.)

COLONEL STICKNEY: Thank you. Will you describe that walk?

MR. WARD: Normal.

FURTHER RE-CROSS-EXAMINATION

BY MR. WARD:

Q Your whole testimony, of course, is related to the fact that there were no complications, is that correct?

A There were no complications.

FURTHER EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q Has your whole testimony been as concerned no complications, or have you touched upon the possibility of complications at times throughout your testimony?

A Only what the gentlemen have asked me. I have told, and I have mentioned several times, that provided there were no complications.

Q Yes, you have but this last statement that your whole testimony has been concerned with the case of no complications, does that cover everything you have said, or have there been certain features there where you have spoken of the possibility?

A Yes, there have been several features when the gentleman for the defense asked me if there were an infection present could I tell on this plate, and I answered the question and said no, I could not tell if there were infection or not.

COLONEL STICKNEY: Anything further.

MR. AITKEN: Nothing further.

MR. WARD: Nothing further.

COLONEL STICKNEY: The witness may be excused.

(Witness excused)

MR. WARD: At this time we call --

MR. AITKEN: May I have a moment please to telephone, I want to get transportation for these officers.

COLONEL STICKNEY: Yes, how long is it going to take.

MR. AITKEN: Two or three minutes. Just as fast as I can get to the telephone.

MR. WARD: It will probably take that long to get the next witness, Hifumi Tanaka.

HIFUME TANAKA

a witness for the defense, being first duly sworn, was examined and testified as follows, through Interpreters Saito, Nitta and Nishihara:

DIRECT EXAMINATION

BY MR. WARD:

Q Your name?

A Tanaka, Hifume.

Q Your age?

A Thirty.

Q Your present address?

A The High Commissioner's Stockade.

Q You are now a prisoner of war?

A Yes.

Q Have any charges been placed against you?

A No.

Q To your best knowledge, you are merely in this area acting as a witness in this case and others, is that correct?

A I believe so.

Q You expect to be repatriated to Japan?

A Yes.

MR. WARD: At this time I would like the Commission to warn the witness of his rights.

COLONEL STICKNEY: What rights do you have in mind?

MR. WARD: The rights that he need not testify against himself -- I mean, to testify as to anything that might injure himself -- self-incrimination.

COLONEL STICKNEY: You didn't warn all of these others.

MR. WARD: All the prisoners of war have been warned. This man is a prisoner of war, although he expects to be repatriated and there are no charges against him. However, if the Commission wishes not to warn him of his rights, that is up to the Commission, but I am requesting it at this time.

COLONEL STICKNEY: Your request will be granted, although it seems to me unnecessary.

Tanaka, this Commission is not trying you. We are trying Nanjo. Nanjo has called you as a witness in his defense. Anything you are asked to answer that is likely to incriminate you, we have no desire to have you answer that question against your will.

Q Calling your attention to the middle of 1944 -- that is, June, July and August -- where were you stationed?

A In Bacolod.

Q That is in Occidental Negros, Philippine Islands?

A Yes, Negros.

Q What was your rank?

A ✓ Sergeant Major.

Q You were attached to which unit?

A To the Yamaguchi battalion.

Q What was your position in that battalion?

A I was chief clerk of the battalion.

Q Were you attached to any company or were you at battalion headquarters?

A Since its organization I was attached to the battalion headquarters.

Q In other words, you served as chief clerk under Colonel Yamaguchi, is that correct?

A Yes.

Q In such a position were the facts available to you as to the disposition of the various companies and the movements of the battalion, etc.?

A In general I know them.

Q Calling your attention to the month of July and the early part of the month of August 1944, where was Company 1 -- Captain Takahashi's company -- located in that area?

A Company No. 1 was assigned the task of security guard between Bacolod and Manapla.

Q Was General Kono's headquarters moved to the Bacolod area around this time, referring to the month of August 1944?

A Yes, I believe they came from Cebu then.

Q About what part of August was this?

A I believe it was around the end of August or the beginning of September.

Q You stated that Company No. 1 was in charge of the security of the Bacolod area around the month of July or the first part of August. How long did they continue to have that duty? I withdraw that last question.

Where was the headquarters of Company No. 1 during July and the first part of August 1944?

A In Bacolod.

Q How long did this headquarters remain in Bacolod?

A The headquarters of the First Company was established in January 1943 when they landed until the end of August 1944.

Q Where did they then go?

A Company headquarters moved to Victorias.

Q That was about the end of August, you stated?

A Yes.

Q Do you know the Hori battalion?

A Yes.

Q Was that battalion ever in charge of the Bacolod security area?

A Yes.

Q When did that occur?

A The Hori battalion replaced the Yamaguchi battalion when the Yamaguchi battalion was slated to go to Leyte.

Q When was that?

A The 24th or 25th of October.

Q Did the whole Bacolod security area -- that is, Bacolod to Manapla, and the outlying garrisons, such as Boroboro, Murcia and Concepcion -- then fall under the Hori battalion, instead of Colonel Yamaguchi's force?

A The Hori battalion was given the entire responsibility when our battalion was supposed to go to Leyte.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Please remind the witness that he is proceeding under the same oath.

(Interpreter Nishihara translated to the witness.)

Q When the Hori battalion took jurisdiction over the Bacolod security area, where did Colonel Yamaguchi's battalion gather?

A They gathered in Bacolod.

COLONEL STICKNEY: These questions have been rather confusing to me. This witness has spoken of Bacolod, Manapla area, for the First Company. You have spoken rather repeatedly of the Bacolod security.

MR. WARD: That is one and the same thing. If you remember Captain Takahashi testified as to the area.

COLONEL STICKNEY: Let's clear that up.

Q When I spoke of the Bacolod security area, is that synonymous in your mind with the Bacolod, Manapla, Boroboro and Murcia area you referred to a little while ago?

A Yes, the area commanded by Takahashi is that area.

Q When Colonel Yamaguchi's battalion gathered in Bacolod, did the Takahashi company come down from Victorias or did it remain there?

A The entire battalion gathered in Bacolod.

Q Did Captain Takahashi's company ever go back to Victorias?

A Yes.

Q How soon thereafter, referring to this period around the 24th, 25th, 26th and 27th of October?

A About the 20th of November.

Q During this period of time did they have any active security area to guard?

INTERPRETER NISHIHARA: Which time are you referring to?

Q This time between October 24 and 25, and the last date given in November.

A No.

Q Calling your attention to the first part of December 1944, did any of the Yamaguchi battalion go to Bago?

A Yes, after we entered December three companies were assigned to the LaCarlota area as security guards.

Q Is LaCarlota in the vicinity around Bago?

A It is about thirty kilometers south of Bago.

Q Was Company 1, Takahashi's company, one of the three that had this area to guard?

INTERPRETER NISHIHARA: May I make a correction in my interpretation? It was not three companies, it was the Third Company.

MR. WARD: I withdraw the last question.

Q Did Captain Takahashi's company have occasion ever to go to Bago around this time?

A Yes.

Q About what time was this?

A About the fourth or fifth of December.

Q Was that before or after the Yamaguchi headquarters were stationed in Bago?

A I believe that it was about a day after the Yamaguchi headquarters went to Bago.

Q Was all of Captain Takahashi's company sent to Bago, or only a part of it?

A The entire company.

Q Calling your attention to the defendant, Lieutenant Nanjo, do you recognize him?

A Yes, I know 2d Lieutenant Nanjo.

Q Was he in the Yamaguchi battalion?

A He was attached to the First Company.

Q That would be under Captain Takahashi?

A Yes.

Q Did you have occasion to see Lieutenant Nanjo after Company 1 came to Bago on or about the 5th of December 1944?

A No.

Q Did you have occasion to hear any reason why you should not see Lieutenant Nanjo at that time?

A I know that the First Company was there because the entire battalion was there. However, I did not see either Captain Takahashi or Lieutenant Nanjo.

Q You stated you were a sergeant major, is that correct?

A Yes.

Q What is the uniform worn by a sergeant major?

A The official uniform of a sergeant major and below are the same. The officers wore boots and the color of the uniform was also different.

Q Would the color of the uniforms be materially different, or would it materially be a difference in grade of material?

A Different material; the color is also a little different.

Q Could this difference in color be noticed at a distance of one hundred yards or meters?

A I believe that if the person is not a soldier in the Japanese forces he could not tell the difference.

Q Does a sergeant major carry a revolver, a rifle or a sword?

A In general the saber is carried. However, according to the mission revolvers are sometimes carried.

Q While you were in Bago the first part of December 1944, did you ever hear if anything happened to Lieutenant Nanjo?

A I heard that he was wounded.

Q Did you hear of any of the details?

A No, I did not.

Q How long did the Yamaguchi battalion stay in Bago?

A Until about the 14th or 15th of February 1945.

Q Where did they then go?

A Then we returned to Bacolod.

Q Referring at this time to Yamaguchi headquarters, are you not?

A Yes.

Q What date in February was that?

A The 14th or 15th.

Q Did Colonel Yamaguchi's battalion ever regain the duties of security of the Bacolod area? That is Manapla, Boroboro, Murcia, after they once had relinquished it on or about the 24th or 25th or 26th of October?

A No.

Q When the Americans landed on or about the 29th of March, where did Colonel Yamaguchi's headquarters move?

A We were still at Bacolod.

Q Where did you go after the Americans advanced?

A To the positions in the mountains.

Q That was about what day?

A From about the 30th of March.

Q Did all of Yamaguchi's companies accompany him?

A One part of the unit was already there in the mountains, one was still in Bacolod, and the Third Company was still in LaCarlota.

Q You state the First Company was in the mountains at that time?

A Yes, the First Company should have been in the position in the mountains by that time.

MR. WARD: You may cross-examine.

COLONEL STICKNEY: Any cross-examination?

MR. AITKEN: No cross-examination.

COLONEL STICKNEY: Questions by the Commission?

There appear to be none. The witness may be excused.

(Witness excused.)

MR. WARD: The defense calls Hidemi Watanabe.

HIDEMI WATANABE

a witness for the defense, being first duly sworn, was examined and testified as follows through Interpreters Nitta and Nishihara:

DIRECT EXAMINATION

BY MR. WARD:

Q Your name, please?

A Hidemi Watanabe.

Q And your rank in the former Japanese Imperial Army?

A Lieutenant Colonel.

Q Your present address?

A At the stockade here.

Q At this time you are a prisoner-of-war, are you not?

A Yes.

Q And at the present you are not charged with any specifications of war crimes, is that correct?

A Yes.

Q You expect to be repatriated to Japan?

A Yes, I desire to do so.

MR. WARD: At this time I would like to have the witness informed of his rights as to self-incrimination.

COLONEL STICKNEY: If the interpreter will interpret, you may tell Watanabe that he has been called by Nanjo as a witness in the Nanjo case. We are interested in the Nanjo case and only in the Nanjo case and do not desire to extract any information from him in the way of confession or anything that he may have committed. He need not answer anything that would so incriminate him.

(Interpreter Nishihara translated to the witness.)

Q You were attached to General Kono's headquarters, is that correct?

A My assignment was with the 102nd Division. However, I was with the Headquarters of the Kono Division for some time.

Q Under General Kono you were a staff officer, is that correct?

A Yes.

Q In that position did you have access to information which would inform you as to the movements of the battalions under the Kono command?

A Yes, I am familiar with the movements after I joined the Kono army group. However, there are things I know and things I do not know of battalions under that command prior to my assignment there.

Q Calling your attention to the months of July, August, September on through 1944 and the early part of 1945, did you have occasion to know where Colonel Yamaguchi's battalion was located?

A On the island of Occidental Negros.

Q Do you have occasion to know what the Yamaguchi responsibility covered during the months of July and August, September 1944, on Occidental Negros?

A Yes, I know them in general.

Q What was the responsibility at that time?

A They were responsible for the security of Occidental Negros. However, this excludes the areas about

Fabrica and San Carlos.

Q Calling your attention to the month of October 1944, do you know the movements of the Hori battalion?

A I also recall that around July the Hori battalion came under the command of the Yamaguchi battalion and they took over the security of the areas I mentioned before -- Fabrica and San Carlos -- and others.

Q The Hori battalion came under the control of Yamaguchi or Kono -- which?

A It came under the command of General Kono.

Q Around the end of October 1944 was Colonel Yamaguchi's force scheduled to move from the Negros area?

A There were orders from division headquarters for a movement. The Yamaguchi unit was also included in this movement. They were to transfer to Leyte in the early part of October. Therefore, the Yamaguchi battalion assembled in Bacolod.

Q That was in the latter part of October, is that correct?

A Yes.

Q Who took over the Yamaguchi responsibility as to the security of the Bacolod area?

A The Hori unit took over.

Q Did the Yamaguchi force go to Leyte?

A In the latter part of October the Yamaguchi battalion was waiting to transfer to Leyte. However, about the middle of November there were orders from Supreme Headquarters in Manila that this transfer of troops to Leyte be stopped. Therefore, the division

commander ordered them to remain on Negros.

Q What was their next duty on the island of Negros and in reference to what area?

INTERPRETER NISHIHARA: You are referring to the Yamaguchi battalion?

Q The Yamaguchi battalion -- yes.

A The battalion was charged with the security of Bago and the area south of the lower reaches of the Bago River. However, this excludes certain places, such as Binalbagan and Isabela.

Q When did the Yamaguchi battalion start these new duties and where was their headquarters?

A According to my documents as it remains in my memory, I believe it was towards the latter part of November and I also believe that battalion headquarters was in the town of Bago.

MR. WARD: You may cross-examine, Mr. Aitken.

MR. AITKEN: No cross-examination.

COLONEL STICKNEY: Questions by the Commission?

EXAMINATION BY THE COMMISSION

BY COLONEL STICKNEY:

Q I would like to ask what position on the staff you held.

A Will you please stipulate a time on that?

Q From the beginning of the time when you were on the island of Negros with General Kono up until April of 1945.

A I was dispatched to the headquarters of the Kono army group and reached there on about the 13th of December, 1944. In his headquarters I was in charge of operations.

INTERPRETER NISHIHARA: Sir, he has also mentioned his duties prior to being dispatched to General Kono's headquarters. Would you like that information too?

COLONEL STICKNEY: No, that was not asked and it is not responsive.

Q Where were you prior to the 13th of December, 1944?

A I was at Iloilo.

Q Now, this afternoon you stated that Yamaguchi took over the Hori battalion in July and later when asked by Mr. Ward whether it was Yamaguchi or Kono you said it was Kono. Is that correct?

A The situation then was rather complicated and I will explain that. When the Hori battalion first came to Negros, Brigade Headquarters was still at Iloilo. The Brigade Headquarters moved to Bacolod about the middle part of August and during this time, before Brigade Headquarters moved to Bacolod, the Hori battalion was under the Yamaguchi battalion. However, after the arrival of Brigade Headquarters at Bacolod, the Hori battalion came under the command of General Kono. That was the situation at that time.

COLONEL STICKNEY: The Commission will adjourn and will reconvene at 0830 on the 13th of November.

(The Commission adjourned at 1500 hours, to reconvene at 0830 hours, 13 November 1946.)

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XXIII

PAGES 1278, TO 1395, INCL.

MANILA, P.I.

DATE: 13 November 1946

COPY NO: 1

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney

RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)
vs)
MASAO NANJO) PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
13 November 1946

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member
LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD
MAJOR ROBERT W. FRITZ, CE
MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

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FOR THE DEFENSE:

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MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

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2d LT. TAICHI NISHIHARA)
2d LT. JAMES NAKAMURA)

FILOMENA ZOSA)
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I N D E X

WITNESSES

DIRECT CROSS REDIRECT RECROSS EXAM. BY
COM.

Hidomi Watanabe (Cont'd.)

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EXHIBITS

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P R O C E E D I N G S

(The Commission reconvened, pursuant to adjournment, at 0830 hours, 13 November 1946, in Court No. 2, High Commissioner's Residence, Manila, P. I.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his special interpreter, the interpreters in Japanese, and the reporter are all present in court. Will you remind the witness that he is proceeding under the same oath as already administered?

(Interpreter Nishihara translated to the witness.)

HIDEMI WATANABE

is A witness for the defense, having been previously duly sworn, testified further as follows through Interpreters Nishihara and Nitta:

EXAMINATION BY THE COMMISSION (Continued)

BY COLONEL STICKNEY:

Q If you came to Negros on the 13th of December, 1944, how do you know of the doings of Colonel Yamaguchi in November of that year?

A I arrived on Negros as a staff officer. Immediately upon arrival I learned of the disposition of our forces on Negros from the commanding officer, and I also learned the approximate date at that time.

Q You mean you were told those things, is that right?

A Yes, I heard from the commander of the army group, and I also saw orders of the army group.

Q And the army group issued orders to Colonel Yamaguchi before the army group arrived on Negros, is that correct?

A Yes, the Kono army group was giving orders to the Yamaguchi battalion.

Q How far back did those orders go?

A The Yamaguchi battalion received orders from the Kono brigade from the time of its organization.

Q And when was that?

A General Kono arrived in May 1943. Ever since that time Colonel Yamaguchi was under his command.

Q You mean he arrived at Iloilo?

A It was at Cebu at that time.

Q Now, we have heard on this Commission about the Yamaguchi forces. Could you tell me how many battalions Colonel Yamaguchi commanded?

A The Yamaguchi force was an independent infantry battalion and under its command are companies.

Q What was the numerical number of his battalion?

A During 1944 the approximate strength of the battalion in my memory was around 800.

Q What was the numerical number of the battalion which you say Yamaguchi commanded, not the strength, the number -- was it the 154th Infantry, or what infantry battalion was it?

A After the arrival of General Kono the title of the battalion changed; after that it became the 172nd Independent Infantry Battalion.

Q That is after Kono arrived in Cebu?

A No, at the time of his arrival there it was different.

Q At the time of his arrival in Cebu the number was changed, is that correct?

A Yes.

Q Did Yamaguchi have only the one battalion in his forces?

A There were times when he had other units under his command.

Q Do you know what those times were?

MR. WARD: At this time we object unless it is brought into the relative picture of the trial in this case. In other words, from January 1944 until April or

August 1945. As to times previous to that, it can have no relevancy whatsoever in this case.

Q Will you tell me what times those were, if they happened between January 1944 and April 1945?

A From January 1944 until about the middle part of June 1944, Colonel Yamaguchi was in command of the 2nd and the 3rd Battalion of the 20th Regiment of the 16th Division, and the name of the battalion was the Kawada battalion.

As I testified yesterday from the time of the arrival of the portion of the Hori battalion, which I said to be the latter part of July 1944, should be corrected to the early part of August 1944, and I am not too sure about that. However, I remember for approximately a half a month, that is until the time of the arrival of the headquarters of the Kono army group on Negros, Colonel Yamaguchi was in command of a portion of the Hori battalion. From January 1945 until the 29th of March, 1945 no other units were under his command.

BY COLONEL MACKINTOSH:

Q What was your assignment between January 1944 and December 1944?

A I was a staff officer of the 31st Independent Composite Brigade.

Q During the time that you were a staff officer of the 31st Independent Composite Brigade, did you have personal knowledge of the movements of Colonel Yamaguchi's Battalion?

A At that time Colonel Yamaguchi was under the direct command of the 31st Independent Composite Brigade.

COLONEL STICKNEY: Anything further from the defense?

MR. WARD: I don't know. You mentioned this morning that you wished to augment or perhaps amend your testimony of yesterday as to the Hori battalion. Has that now been amended in your previous statement?

A I just wished to point out to the president of the Commission that when I testified that the portion of the Hori battalion came during the latter part of July 1944, I was not very sure and I believe that it was in the early part of August. Therefore, if that point is clear in the minds of the members of the Commission, I have nothing further to say.

MR. WARD: No further questions.

MR. AITKEN: No further recross.

COLONEL STICKNEY: The witness is excused.

(Witness excused.)

MR. WARD: At this time the defense will rest.

COLONEL STICKNEY: Any rebuttal?

MR. AITKEN: All the prosecution wishes to offer in rebuttal at this time are two documents which were introduced and which were identified as part of the testimony of witnesses. One is Prosecution's Exhibit 6 for identification, which was a sketch-map

which was used as refreshment of memory by the witness, Akira Oyama. Duplications have been made for the record, but in so far as the duplications do not show the printing, I wish to describe the paper on which these notes were taken, for the purpose of the record. I think counsel for the defense has requested that I do that. The notes and sketch-map were written on a circular headed "Army Air Forces Headquarters, Pacific Division, Air Transport Command, APO 953," and is addressed to "To all passengers" and then contains about ten lines in fine print of circularized material, travel material. At the bottom of the sheet of paper in heavy red printing are the words, "Via Pacific Division, Special Pouch" and down in the righthand corner, "Commanding General, Pacific Division, ATC, 1500 AAF Base Unit, Hickam Field, T.H., APO 953, San Francisco, California."

COLONEL STICKNEY: If there is no objection, the sketch will be received in evidence and marked Prosecution's Exhibit No. 6. (Prosecution's Exhibit No. 6 received in evidence.)

MR. WARD: No objection.

MR. AITKEN: I haven't marked these Prosecution's Exhibit 6, but there are four copies for the Commission. And, we offer also a photostat which was identified as Defense Exhibit D, as a part of the testimony of the witness, Yamanouye. The defendant has kindly offered his copy for the purpose of introduction because our copy is being reduplicated at the present time.

COLONEL STICKNEY: I would like to ask -- this sketch-map was marked Defense Exhibit D for the purpose of identification but was not received in evidence?

MR. AITKEN: It was never offered.

MR. WARD: It was merely a rough sketch drawn by myself and there was no purpose of entering it for the defense, and if the prosecution wishes to we have no objection if they want to.

MR. AITKEN: We ask that that be admitted in evidence as Prosecution's Exhibit 7.

COLONEL STICKNEY: There being no objection, this sketch will be received in evidence and marked Prosecution Exhibit 7.

(Prosecution's Exhibit No. 7
received in evidence.)

MR. AITKEN: In due course, reduplications will be given to the record and to the Commission that will be made.

COLONEL STICKNEY: They will appear with today's volume?

MR. AITKEN: Yes, sir. I would like to return to Commissioner Fritz his original exhibit, the reduplications of which are in evidence already. With that the prosecution closes.

COLONEL STICKNEY: We have an address by the defense -- there is nothing further except the address, is that correct?

MR. WARD: That is right.

CLOSING ARGUMENT FOR THE DEFENSE

MR. SCHAUER: Gentlemen of the Commission, we have just completed rather voluminous testimony in this case. The defendant is charged with a violation of the laws and customs of war. To sustain that charge the prosecution has alleged seven specifications.

These seven Specifications, in effect, constitute seven separate and distinct offenses. I would like to comment briefly upon the Specifications -- that is, not the evidence but just the practice of alleging them. It is the same as if the prosecution had made seven distinct and separate charges against this accused, and in deliberating upon his guilt or innocence I feel that each Specification should be considered by itself. That is, the facts which have been introduced relative to that specific Specification should be considered in determining whether or not the prosecution has proven the guilt of the defendant to the extent required. The mere fact that a man is charged and brought into court is no evidence of his guilt. It is absolutely no evidence of any complicity on his part with any of the things which are alleged in the Charge. It is a basic and fundamental rule of our American jurisprudence, a rule which is followed not only in our courts in the United States, both Federal and State, but a rule which the military itself has adopted in its Manual of Courts-Martial, namely, that an accused comes into court with a presumption of innocence. This presumption remains with him throughout the trial and is only rebutted when the prosecution proves the guilt of the accused to and beyond the exclusion of reasonable doubt, and in the event that a reasonable doubt is entertained with regard to the guilt or innocence of the accused, he is entitled and the court or jury considering that case is duty bound to acquit him.

These principles, as I say, are fundamental. The reason I bring them out at this time is this: there is a psychological tendency, because of the recent events, the war that has just passed, because of popular opinion, because of the prejudice and passion of many people, that when a Japanese is brought into court under charge he must be guilty, that he wouldn't be brought into court unless he was. That places an accused at a terrific psychological disadvantage, because you start the trial out, if you are not careful, not by assuming that he is innocent until proven guilty, but by subconsciously or consciously assuming that he must be guilty until he is proven innocent. As I say, the mere fact that you have seven Specifications means nothing in and of itself unless the evidence proves them and each of them to and beyond the exclusion of reasonable doubt.

Now, you can't borrow from one Specification to support another. They are separate, distinct events, both as to time, place, persons involved, etc. The only common denominator in all of these Specifications is the fact that the accused is alleged to have been responsible. So that if the evidence, say, on the Specifications is weak, it would certainly not justify a conviction on one Specification and an acquittal on another.

In any case that is tried, a criminal case in particular, a jury is always instructed that they must keep their minds open, that their oath to try the case fairly and impartially requires them to maintain an open mind, a mind which has not resolved itself into a decision as to whether or not a man is

guilty; that that open mind must exist until the time the case is actually handed to them for their deliberation; and that each of them must consider the evidence dispassionately, without prejudice against the defendant, without pity for or sympathy for the defendant, guided solely by an open, fair consideration of the evidence which has been presented; that each juror should act according to the dictates of his own conscience, according to the dictates of his own mind; that if after a discussion of the case with his fellow jurors he entertains a reasonable doubt, he is not convinced the man is guilty, he is duty bound to abide by that conviction regardless of what the other jurors might think or say, and it is always pointed out to the jury that the jurors are duty bound not to surrender their conviction merely for the purpose of arriving at a verdict to get the case over with.

A Military Commission deciding a man accused of crime sits in the capacity both as judge and jury, and I believe that the same principles which are applicable to a jury trying the facts of the case are applicable to the Commission and I think those principles should be considered by you gentlemen in your deliberations of this case because you have taken an oath to try the case fairly and impartially, and I feel that these principles which are basic in American justice, in American courts of law, are the principles which should guide you in your deliberations with regard to the guilt or innocence of the accused. And I think these principles are even more important in a case such as this, because of the very nature, because of the very setup that we have.

It is a fundamental rule also in our juritical system that the judge, the jury should be an impartial body -- one that is not concerned directly with the outcome of the case, but composed of persons who have no interest one way or the other, except that in a criminal case they do have the interest, the duty, to see that the laws are enforced. But it is a basic principle that the judge and jury should be one other than the antagonists. For example, if A sues B on the contract, alleging breach of a contract, certainly neither A nor B nor any persons connected with either of those two parties will sit as judge or jury on that case. We have a different situation out here, because here the victors are trying the vanquished. So we have, when you consider it from the factual standpoint, we do not have that careful delineation, that careful segregation of judge and jury as distinguished from the participants or antagonists in a particular case. The very people who are the conquerors or the victors are trying the vanquished. By that very fact there is a natural and only human tendency to be influenced by passion and prejudice against those that have been beaten in battle. And I say that it is doubly important to keep in mind the principle of reasonable doubt, the principle of maintaining an open, fair mind, the principle that the evidence should be considered dispassionately and the decisions made regardless of what the consequences may be. It is doubly important to keep these principles in mind, particularly when the natural inclination is to be prejudiced against the defendant from the start. That

is not by way of criticism; that is merely, I think, a fact which almost anybody will agree to. It is only a natural, human consequence of events and of past history. So that I know you gentlemen will keep those principles in mind and I am sure that the evidence as you will analyze it will be done in that frame of mind. That is all the accused asks of you -- that you be fair to him. He doesn't ask for any favors, but he does ask and he is entitled to have you consider his case fairly and impartially, without passion or prejudice.

I came into this case practically at the last moment. Mr. Ward had been assigned the case. He prepared the defense and it was only just a day or two before the trial opened that I was actually in the case with him, so I wasn't in on any of the preparation. I know nothing of the background of the case. I didn't know, frankly, any more than you gentlemen did about it when it began. So that I feel I started off on just about the same footing. I was in court, listened to the evidence presented, listened to the questions asked by the prosecution and defense -- of course, I asked some myself -- listened to the questions and answers asked by the Commission. When I came to prepare my portion of the argument in this case, I tried to sit down and go through the transcripts and analyze that testimony as thoroughly and impartially as I could, bearing in mind, of course, that I was on the defense and that my assigned duty was to defend the accused. Because after all I have no greater interest in this case than anybody

else; I don't have any personal interest in it and I don't think anybody has. When trying to analyze the evidence fairly and impartially, I went to the Specifications on which I am going to speak and tried to give a broad picture, tried to picture the events in my own mind, to see whether or not the prosecution had proven its case by convincing, conclusive testimony.

I am going to start with the first Specification. I find it alleges the accused in or about the month of January 1944 did unlawfully permit soldiers under his command to kill Teodoro Vera and to mistreat, torture and kill Juan Villas. Now, what does the evidence show relative to this Specification? Two witnesses testified for the prosecution and what in brief was their testimony? The first witness, Dometria Villas, testified that Juan Villas was her father and that on January 16, 1944, he was arrested by soldiers under the command of Captain Nanjo at their home, which was in Balogo, a sitio of Granada. He was taken away and that is the last she ever saw of him. Now, according to her testimony, he was arrested at 2 P.M. on January 16, 1944. Her only information that he was killed was supplied by the second witness, who told her subsequently that her father was killed on January 18, which was two days after the day of his arrest.

All right, now we go on to the next witness, the witness upon whom the prosecution relies to establish its case against the defendant on Specification 1. What does Cesar Lario testify to? He says that he was in a coconut tree, at the top of a coconut tree, that he saw a procession of Japanese soldiers on the trail, that there was

a leader there, there were two Filipino civilians. Now, he testified that the Japanese soldiers were led by Captain Nanjo. Now, we stop right there; there is not much you can say. Captain Nanjo was there. You say there were two Filipino civilians. Lamio goes on to say -- he said after that that subsequently he came out of hiding. The Japanese had gone and he saw the bodies of the two people he had seen in the procession -- the two Filipinos. He identified them as Villas and Vera. Now at that point you stop right there and you say to yourself: "Well, apparently the prosecution believes that testimony, that the soldiers under the command of Captain Nanjo were responsible for the deaths," but you go further and the first thing that comes into your mind is how the witness identified the person he called Captain Nanjo, and then you run into some very interesting testimony, because by his own testimony from the stand the tree in which he is hiding is 125 yards, I believe, from the point where the Japanese procession was proceeding along the trail. He is up in the tree, which means he is looking down, he is not looking ahead, he is not looking up to their faces -- he is looking down. You immediately say, "I wonder how he could identify a man from that position at that distance." And then I suddenly remembered that a subsequent witness with reference to a subsequent Specification testified that he recognized Captain Nanjo at a distance approximately the same and at that time you will recall we were out in Court No. 3 and we were using relative objects from our position in the courtroom as indicating the relative position of the witnesses from where Captain Nanjo was alleged to have

been. And you will recall that, I believe, it was Tiburcio Jonota who testified he had seen Captain Nanjo and recognized his features at a specific distance and he pointed out the scaffold at the Army and Navy Club as representing the distance where he was hiding to where Captain Nanjo was. And he said from that distance he saw it was Captain Nanjo, he recognized his face, he saw the ropes tying the victims together. After he testified to that, we saw some people come up and actually work on this scaffolding. We asked him not who they were but, "Can you tell whether or not they are Filipino, American or Japanese?". And he couldn't tell us, because nobody could tell. I couldn't tell and I don't think anybody could clearly distinguish even the nationality of those people, much less their personal identification. Now, that distance is approximately the same distance testified to by Cesar Lamio, remembering that that further weakens that identification. I am now in serious doubt as to whether he identified, actually identified Cesar Lamio from the top of that coconut tree, but there is still one other factor. In that procession were two people -- two Filipinos. They were not strangers to Cesar Lamio, but they were life-long friends and acquaintances, people he was completely familiar with. Now, reason will tell us that if there was anybody in that lineup that he could have identified, it would have been those two people, but he specifically testified that he could not recognize those two people at that time and it was only after he saw the bodies off from the trail after the Japanese had gone that he recognized who they were. By his own testimony

he had seen Nanjo only once prior to that. Yet, he would have us believe that from his position in the tree he could identify a Japanese, a person who was dressed approximately the same as the other Japanese soldiers, looking at him at an angle downwards, where he would get a very unsatisfactory slant at the person's face. He would have us believe that he could identify at that distance a man whom he had seen only once before in his lifetime. And we are to believe that he recognized that man, and yet right there next to him were two people he had known all his lifetime and he couldn't identify them, he didn't have the slightest idea who they were. I say to you that that is absolutely no identification at all. That is absolutely a conclusion on the part of the witness as to whom that was. A man can come into court and say, "Yes, that was so and so and so and so," but if the principal facts surrounding that identification do not support him, that identification means nothing. In this particular case the physical facts not only fail to support him but they are distinctly contrary, they are completely irreconcilable with his statement that he identified the person as Captain Nanjo. It does not bear reason that he could do that.

Another very interesting thing about Cesar Lemio: he was in court on two days. He testified toward the end of the afternoon on the first day and his testimony was concluded on the second day. He testified in connection with his testimony about seeing Nanjo at a prior occasion, he said he had seen him briefly on that one occasion for about half an hour. He was asked this question on page 82-A:

"Q Do you see the man in court now who was with you during that one half hour?" (and that was referring to Captain Nanjo, as he was called --)

"A Because of the length of time I seem to forget him." In other words, he could not identify Nanjo at that time, but it is very interesting to note that the following day, on page 126, he had absolutely no trouble in identifying Captain Nanjo in the courtroom. I say that means only one thing: that that witness has talked to other people about the identity of the accused. It just doesn't ring true that a man will come into court one afternoon and say he can't recognize him and come into court the very next morning and say he does. And that brings us to a point, a short digression, which has to do with reference to prosecution witnesses.

COLONEL STICKNEY: The Commission will take a ten-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. SCHAUER: I believe the last remark I made had reference to the fact that Cesar Lamio had failed to state in effect that he could not identify the defendant the first day he was in court, the afternoon of the first day.

COLONEL STICKNEY: You were about to make some remarks on Filipino witnesses in general.

MR. SCHAUER: The fact that he did have no trouble in identifying the witness the next day. Throughout the course of our cross-examination of these various prosecution witnesses, we spent a certain amount of time bringing out the fact that they came up here from Negros together, and I think, with very few exceptions they all came at the same time; that they left Negros on the 7th of September, came up to Manila, and were quartered down at the OCCW together during the progress of the trial. They left on the 7th of September. That was a month, one month before this case actually, the trial of this case actually began, they lived together, they associated together, they were brought here to the High Commissioner's Residence from day to day to testify together; they saw the accused. And, by the testimony of Tanique himself that the witnesses had disembarked from the truck bringing them here from OCCW on one day, and after they had disembarked the accused was led from the stockade over to the courtroom, and at that time we were sitting in Court No. 3 outside, and that he then recognized Nanjo and remarked that that was Nanjo.

The reason, I think, and common sense will tell us that

under a set-up such as that, these witnesses are bound to have discussed this case with one another -- that is only human nature that they do so. They know, and they knew when they left Negros on the 7th of September that they were coming up here for one purpose and one purpose only, namely, to testify against Nanjo. Now, that must have been firmly implanted in their minds. First of all, they had to be consulted about coming here, arrangements had to be made to bring them here, they had to be picked up and taken to the port of embarkation, transported here, they lived here together. And, when we see testimony such as we have in this 1st Specification of a witness who on one day cannot identify the accused in court, but yet comes back the very next morning and identifies him with no trouble, I myself become suspicious and my suspicions are even further aroused when the facts are brought out that all of these witnesses lived together at the same place during the course of the trial; that they are brought up here together, that they came aboard the same vehicle of transportation, and I can't help but think that these witnesses have discussed this case among themselves, that they know they are coming up to testify against Nanjo -- that fact must be made evident to them. They know the person they are going to testify against is a person by the name of Nanjo, and when I see this discrepancy in testimony, as I say, I can't help but feel that between the close of the court session one day and the opening of that session the next day that witness has talked to somebody, and that somebody has told him who was Captain Nanjo.

That is the only conclusion I can come to, because it seems logical that somebody actually did that.

This is only one example in this case because identifications in reference to the number of specifications are such that I am not convinced that the witness when he testifies that the person he saw doing a certain thing was the accused, Nanjo. As I observed these witnesses testify, I feel that they do not distinguish between the things they actually saw and heard with reference to specific events and by hearing, I mean the sounds produced while they claimed to be witnessing that event and not from hearsay, as I say, I feel that they do not distinguish the things that they actually witness from the things which are told to them. So that they may see an individual from a distance do something not recognizing but later associates that individual with a particular name because of what someone else told them.

Now, I don't see how you can come to any other conclusion with reference to this 1st Specification than that that was done, because, as I say, at the risk of being repetitious, the physical fact surrounding the identification of a man at the top of a tree looking down 125 yards with all other factors I have listed here, it is not possible, it is not logical that that was done. That witness Lemio did not recognize that person he saw at the head of those troops as Nanjo. He could not have. So then we are left with the other only conclusion that somebody has talked to him and told him that that must have been Nanjo, and he

therefore associates that statement with what he actually saw. Now, I am giving him the benefit of the doubt, I do not like to charge a witness with deliberate falsifying and I think looking at his testimony in the most favorable light to him he has assumed because of what someone else said that that person he saw was Nanjo. Once he makes that assumption it is then amalgamated. He does no longer distinguish between what he saw and what someone else told him. So that from that time on whenever he relates that event that will be Captain Nanjo, because he saw him, not because he recognized him at that time but he saw that man and someone else has by the process of association convinced him that that person was Captain Nanjo. A further point on that identification is this, he saw Nanjo for only a brief moment, and then he says that he went down from the tree and hid behind a bamboo grove. Now, there are a number of inconsistencies with reference to his own testimony as to what happened.

In the first place, his first account was that he saw this procession, that he immediately looked and identified the leader as Captain Nanjo. Then he hid -- he went down from the tree and hid. From that point on the account varies with each questioning of it. In the first place, he said he didn't see the Japanese any more after he went down from the tree. Then, on Page 100 he was asked, "After you descended from the tree did you again see the Japanese squad led by Captain Nanjo?" "Answer: Yes." "Question: Where did you see them?" "Answer: They followed Captain Nanjo." Then the question is asked: "You saw them departing, is that correct?" and he gives this answer, "I did not see them leave, but I saw them no longer there." In other words, in one breath he sees them, and in the next minute he doesn't see them, he sees them no longer there. Then again he is asked the question in almost the next breath, "When after you descended from the tree did you again see the Japanese?" "Answer: I didn't see them any more." So we have this conflict. We could have gone on, I think, all day with this witness. One minute he would have seen the Japanese after he left the tree; in the next minute he would say he didn't see them. I believe he drew a diagram which has been introduced as the Defense Exhibit C. In that exhibit you will note that he has the two bodies located on the same side of the road as the tree was located in which he was hiding and yet in response to a direct question, on Page 121, before he drew this diagram, he stated the bodies were fifty yards off the road when he found them,

on the other side of the road from where he was hiding.

And I will call your attention to Page 127, as it was at that point he definitely stated he could not recognize the civilians while they were in the procession. But he was able to recognize them only at the time when they were already dead. It is also interesting to note they were not blindfolded at that time, so there was no physical impediment there to make any identification which was possible under normal circumstances.

One final comment on this specification: As I say, we have two witnesses -- one testifies her father was arrested and that is all she knows. She says Captain Nanjo led the soldiers that arrested her father and he was taken away. She claims she had seen Nanjo before that time many times, and that -- I believe she testified, I am not certain -- he was the commander of the Boroboro Garrison. Cesar Lamio testified that Nanjo was the commander of the Boroboro Garrison. The defense testimony clearly shows, and it shows by people who are certainly more in a position to know who was commanding what place at any particular time than the witnesses with regard to this 1st Specification, and it shows clearly that at that time Nanjo was in Bacolod engaged in education work, training of troops, that he did not go to Boroboro until February, two or three weeks after the events alleged here were supposed to have occurred here. So that at that time, at the time of this specification, Nanjo was not in charge of the troops at Boroboro, but I believe it was a Sergeant Fujimaki who was in charge at that

time. The mere fact that a witness says Nanjo was in charge of the Boroboro Garrison I don't think means much, because shortly after that time he was in charge of the garrison and the time can easily be confused by a witness, because, for all we know, these witnesses probably learned later where Nanjo was stationed. They certainly were not in a position to know the exact assignment of a man at that time. I feel that they were told later and knew that the defendant here was in charge of the Boroboro Garrison and have assumed that he was in charge prior to that time, at the time these events took place.

So, in passing from the 1st Specification, without even considering a word of defense testimony, the identification of the man that is supposed to have led the troops that killed these two people is so weak that I feel in my own mind there is not only a reasonable doubt, but I am completely doubtful. It is not a question of balancing the scales to see whether or not there is a bit more evidence one way or the other, so far as I am concerned in this particular specification, but I feel the evidence of identification -- and that is the evidence that the prosecution relies upon to sustain a conviction on this 1st Specification -- is so weak that it falls by its own weight.

Going on to the 2nd Specification, it is alleged that in or about the month of July, 1944, the defendant did unlawfully permit soldiers under his command to mistreat, torture and kill Bartolome Toriano, in violation of the laws of war. Here again, when I consider the testimony of this

specification, I run into a great deal of difficulty, because I see that Purificacion Salon, who was the first witness to testify, stated that her husband, the deceased, Bartolome Toriano, was arrested in the market place at Concepcion by Captain Nanjo; that he was taken to Boroboro and later brought to Bacolod to the Bacolod Kempei Tai. She said she accompanied her husband to Bacolod on the same train with him. When he got to Bacolod he was taken to the Kempei Tai. And that was on the 29th of June, 1944. That he was kept at the Kempei Tai until the 5th, when he was taken to the provincial jail. Then, as to what happened to him after that is purely hearsay and conjecture, because she claims she was informed he was killed, that after the last time she saw him he was in Bacolod, and the person that told her about the killing was Lauro Mariano. Now, Lauro Mariano, according to Purificacion Salon, testified that her husband was killed on the way from Concepcion to Boroboro. At Page 171 the question was asked, "What did Mariano tell you about your husband's death?" "Answer: Mariano did not tell me anything concerning the killing of my husband. He only told me that my husband was killed by the Japanese and then told me that if I ever want to see where my husband was buried he can show me." Practically on the very same page the question was asked, "Did Mariano mention to you Captain Nanjo?" "Answer: Yes, sir." "Question: What did he say about Captain Nanjo?" "Answer: That Captain Nanjo was the one who killed my husband." Later, at Page 172, the question is asked of her, "Now, did Mariano say anything to

you in connection with this bayoneting about Captain Nanjo or his soldiers?" "Answer: During the time my husband was bayoneted Captain Nanjo was there holding his saber." "Question: How do you know that?" "Answer: Because Mariano told me he was looking at the time they were there." So that her testimony that Toriano was killed -- she says that Mariano told her all these things, described the killing itself practically -- who did it, who was there. But it is extremely interesting to note that Mariano's affidavit -- you will recall he did not testify and his affidavit was introduced in evidence -- in his affidavit he says not that Captain Nanjo was there or that Captain Nanjo had anything to do with it, but that the death blow, that he was killed by Nakatani, Corporal Nakatani. Furthermore, when he was asked to explain the killing, here is what he says, to paraphrase it: On July 15, 1944, he was gathering firewood about fifty meters away from the Boroboro Garrison. That morning, about eight o'clock some Japanese soldiers approached him and told him to cut away about one and a half meters square of the grass there. He did that and after that he went about his business gathering firewood. Then he saw two Japanese soldiers digging a hole about a meter square on the cleaned ground. He asked what the hole was for and was told that a Japanese named Nakatani had beaten so badly a man that the man should be buried. At noon that day he left and went home. Then he came back later on, saw that this hole was covered up with earth and leaves. That is all that this witness saw of any

alleged killing. At no time did he see the deceased; at no time did he see anyone killed; at no time did he see anyone beaten. Now, there is absolutely no way of reconciling his statement with the statement of Purificacion Salon, who positively tells you that Mariano told her that Captain Nanjo was the one who killed her husband and also in the very next breath practically she says, "During the time my husband was bayoneted Captain Nanjo was there holding his saber."

Now, that is absolute. It is as those two statements by Mariano and Purificacion Salon, are as diametrically opposed to each other as they possibly could be because Mariano saw nothing of the killing. And one other interesting thing about his affidavit is that he concluded that the man who was buried there was Bartolome Toriano because he saw Toriano's dog howling at the grave, so the only evidence at that point that we have is in effect the testimony of an animal, because an animal in effect told Mariano that his master was buried there. Mariano at no time saw the body; he at no time saw the killing, and, I say, there is absolutely no evidence in this second specification that the accused was responsible in any manner, shape, or form for the killing of Toriano. No competent evidence whatever, because even if you accept the statement, the hearsay statement of the first witness, Purificacion Salon, any testimony that she makes with reference to what Mariano told her is contradicted and denied by Mariano's own testimony which we have to accept in the form of the affidavit -- it is as if he himself testified on the stand, and he specifically says that he did not see any killing, he specifically says that Nakatani, according to hearsay, was the one responsible -- he did not see the body and it was not until November that he went there with Toriano's wife and they dug up this grave. That was July, August, September, October, four months after the alleged events took place, and there they found this

body and the identification was made as a result of a couple of gold-filled teeth. I believe from that evidence alone that she identified this body as the body of her husband. Mariano makes a very interesting statement in reference to that. He does not mention teeth, but he says, "I took her to the hole I have described above and we recovered some bones we recognized as those of her husband," so that he places the identification on the basis of some bones. Whereas she places it on the basis of the gold teeth. So when you consider the testimony of these two witnesses without even bothering about the defense before you even analyze the defense's testimony, referring to it, you find a hopeless conflict -- you find evidence that is so inconclusive that I feel that so far as this man is concerned, so far as the accused, it should be disregarded. A man is on trial, gentlemen, for his life and liberty. They are the most precious things that we know of and because they are so valued and precious the proof necessary before he should be deprived of them should be true substantiation, convincing proof, proof that stands out without a doubt, proof that conclusively this happened and when proof rises to that level, then you are justified in depriving a man of his life or liberty, but it can't be done on evidence that is so inconclusive, so conflicting as the evidence that the prosecution has introduced with reference to this second specification.

But, we will go further. The defense, I feel, has established a very complete and logical account as to what

happened with reference to this second specification. The witness, Takahashi, who is the company commander of the company to which the accused was attached, testified that about July 1944, the Kempei Tai requested Toriano's capture. He was a suspected guerrilla and in response to that request, Takahashi called Sergeant Major Suzuki who at that time was the commander of the Boroboro garrison and instructed him to capture this guerrilla. He was captured, brought to the company headquarters, and then sent to the Kempei Tai for investigation. He was investigated and established as a guerrilla, and then in order to apprehend other guerrillas in that vicinity he was then taken on this expedition to Boroboro. The expedition, however, was not a success, they did not capture anybody and so they returned. Takahashi then had other matters to take care of and he, together with the accused, left Boroboro the next day.

Corporal Nakatani was left in charge of Boroboro, and the prisoner was left there with Nakatani and Nakatani was instructed to hold him there. Regardless of what you are going to say about the testimony of the defense in this case, the testimony is supported by the prosecution's own witness, Mariano, who testifies that the actual death was due to actions by Nakatani, and that is supported, as I say, that does support Takahashi's own statement that at that time Takahashi had left Nakatani in command of the Boroboro garrison and had placed the deceased in his charge. So that whatever

happened to the deceased was in no way the responsibility of the accused. You don't only have to accept the testimony of Takahashi but you can take the prosecution's own testimony. By their only testimony this man was taken after his arrest to the Kempei Tai. The Kempei Tai is a separate and distinct organization. He wasn't killed a few days later, but it was approximately two weeks later before Toriano met his death. The prosecution with reference to their own case never established the fact that he was not tried or given a hearing. As a matter of fact, that was not done even with the first specification. And that, gentlemen, is certainly one of the elements necessary in the conviction of a man with regard to these specifications. If a person has been given a trial and a hearing and by judicial procedure is convicted and sentenced to be executed, that makes all the difference in the world, because the big distinction in this case is whether or not the accused went himself, or as a commanding officer, provided such a procedure for the deceased. The prosecution has not introduced any evidence with regard to whether or not these people were given a trial. The time element is such that they might well have been given a trial, because they were not taken out or executed in the same day. As I say, there were over two weeks elapsed on the second specification.

Whether they were given a trial or not is one of the elements necessary to sustain a conviction, and I believe that is so for this reason. During war time the taking of human life is on a much different footing than

in peace time and whether or not the taking of human life constitutes a violation of the laws and customs of war, depends on whether certain procedures were followed before that was done. And like every other element necessary to establish the guilt of an accused, that must be proven. It is not sufficient to come into court and say so-and-so was killed, because in order to prove that that constitutes a violation of the laws and customs of war, it is necessary to go further and show that so-and-so was killed without benefit of hearing or trial under circumstances such as these. And I say that the prosecution has not proven that element of the offense. But I am not relying upon that technicality alone, because I am considering the evidence relating to what these witnesses actually saw and heard. And I say that the defense has clearly established affirmatively that the defendant was not in charge of the Boroboro garrison at that time, that he was not there at the time that Toriano was killed, and supported by the prosecution's own testimony what responsibility there is for the execution in this second specification, rests not with the accused but with the person who was in charge at that garrison at the time the victim met his death, and that would be Corporal Nakatani.

The third specification alleges a killing, the torture and killing of Faustino Alindog and Ricarido Alindog on the 21st of December, 1944. That specification the evidence showed the mother and wife of the victims respectively testified that the Japanese came to her house on December 21st. They came from Boroboro, and that Nanjo

was the commander, that they arrested her son and husband and that they were mistreated at that time, they were struck, kicked, and taken away. That also arrested at that time was Leopoldo Agravante. Later on that day Agravante returned and told her that her husband and son had been executed. Now, this witness also identified the defendant in the courtroom. You will recall her, she was an elderly lady, by her own testimony, she was sixty-five years of age, very infirm, her general physical condition was not good, she had difficulty in seeing -- her eyesight was not good.

By her own testimony she had seen Captain Nanjo only once before this particular day. In other words, she had seen him only twice in her lifetime, the last time being approximately two years ago. And yet, under those conditions, she too had no difficulty in picking him out in the courtroom. She identified him. Not having seen him for over two years, as I say, she walked right up to him and picked him out. That indicates to me she must have talked to somebody about him, that somebody must have pointed him out to her and told her that was Captain Nanjo, that was the man. Her testimony is rather contradictory, because in describing the mistreatment to her son before he was taken away, first she says she did not see Nanjo kick her son and in the very next breath she says she did and then she testifies he did not and then again that he did.

The main testimony, however, of the prosecution was by Leopoldo Agravante, who testified that he was arrested at the same time and taken away. Agravante testified that as they were walking along they heard a shot; that the Japanese ordered them to take cover and he looked back at that time and at that time when he looked back he saw Nanjo hacking Faustino Alindog with a saber and then he went and lay down on the edge of the bank of the river and later escaped.

On page 723 he positively states he saw the Japanese using bayonets. Now, on cross-examination he was asked by the Commission on page 749 -- he was reminded by the Commission he had previously said the Japanese used bayonets.

He was asked, "On whom did they use their bayonets?"

"A I don't know to whom they used the bayonets, but I saw that Faustino Alindog was hacked with a saber.

"Q Well, did you see these Japanese use their bayonets?"

"A I didn't see them using their bayonets to kill people, but I saw them with bayonets.

"Q Do you remember what you said yesterday about their bayonets?"

"A I don't remember telling they used their bayonets to stab."

"Q Do you remember anything you said yesterday about the soldiers using their bayonets for any purpose?"

"A I said yesterday they had with them bayonets, but I didn't say they used it to stab people."

In his affidavit which we read into the record, which was taken by the prosecution and is in evidence, he testified, or he stated after having been sworn at Bacolod on the 28th of February, 1946, he said he saw Lieutenant Nanjo himself slash with his sword both Faustino and Ricarido Alindog. Some Japanese soldiers and Banez then bayoneted Faustino and Ricarido until they fell to the ground. So in his affidavit he sees both the use of bayonets and he sees also Nanjo hacking both of the victims with the saber. However, in his testimony, for instance on page 742, he positively states that he saw Nanjo deliver only one blow; that he did not see him hack Ricarido Alindog with a sword. And he previously testified at page 722, when he said he looked

back and saw Nanjo hacking Faustino Alindog with a saber.

With reference to this specification, if you will note, the time was the 21st of December, 1944. The defense has introduced a considerable body of testimony which shows us that at the time that these events are alleged to have occurred, the defendant was in the hospital suffering from a bullet wound. We have that testimony not only from the defendant himself -- we have that from a number of other witnesses. Some of those witnesses were Filipino civilians now living down in the Bacolod area. Others were Japanese prisoners-of-war. I would like to just say a word about the testimony of Japanese prisoners-of-war. It is very easy to discount their testimony, because of the fact they are prisoners-of-war and are Japanese. The way they come into court and testify here places them, their integrity and the defense at a grave disadvantage, because you know they are not free men -- they are confined in a stockade, they are brought over to court under armed guard -- they come into court and they sit down here. They are not dressed as civilians; they are dressed in fatigues. They have the words "P.W." blazoned across the back of their jackets. And immediately, if you are not careful, you are going to say, "Well, that witness' testimony doesn't mean much." You may not say that in so many words, but you will psychologically react that way to the witness, and that first impression psychologically has a great deal to do with the evaluation you will give the witness' testimony.

For example, even in a place like Alcatraz, when inmates are brought into the Federal Court to testify, they are dressed properly in suits. There is no indication that they are confined or they are under guard, because the court feels to do so unduly prejudices the mind of the court and jury in the analysis of their testimony. So I say there is no rule of law that I know of any place that says that merely because a man is a prisoner-of-war that his testimony should not be considered and judged by the same standards that you apply to the testimony of any other witness. And I think that should be kept in mind when you evaluate the testimony of a Japanese prisoner-of-war. There is no law that says that you can discount, discredit, or distrust the testimony of a witness because he happens to be a Japanese, Filipino, an American, or any other nationality. Under no circumstances is that in and of itself sufficient basis to discredit him.

Now, the prosecution, of course, will argue that the Japanese are sticking together, that they want to help one another and that that, of course, colors their testimony. But, I say to you there is less reason for Japanese witnesses to tell a falsehood on the witness stand here than there is for any other witness. Let us take Dr. Kanda who testified he treated the defendant in the hospital in December of 1944. There is a man who is about to be repatriated to Japan. There are no charges against him. There are none contemplated against him. Do you think it is reasonable that he would come into court here and testify on behalf of a person

who is no particular friend of his and testify falsely and jeopardize his chance of returning to Japan as a free man?

COLONEL STICKNEY: The Commission will take a five-minute recess.

(Short recess.)
COLONEL STICKNEY: The Commission is in session.

MR. SCHAUER: (Continuing) With reference to the testimony of Japanese witnesses, in particular, Japanese prisoners-of-war, I will say I think you have to be careful that you don't fall into that psychological frame of mind whereby you distrust them right off at the start. Because, as I say, they have less incentive to tell falsehoods here on the stand than any other witness. They have nothing to gain by it themselves and those that are to be repatriated have everything to lose, because they know that if they are caught telling any such falsehood it will jeopardize their chances of freedom, it may involve them in other ways. So I think we should be conscious of that fact in analyzing their testimony.

With reference to this third specification, the defense is clear, there is no doubt but what the accused was injured. He testifies that he was injured after he came from Victorias and went to Bago. He was injured on the 6th of December, taken to the hospital and was there until March. Now, these events are alleged to have occurred on the 21st of December. Under no circumstances could he have been up and about by the

21st of December. Not only that, we have the testimony of the doctor who was there around the 6th -- between the 1st and the 10th, I believe, Dr. Konda says he saw him in the hospital for the first time. He testified further that he saw him again, he saw him in the hospital between the 12th and 18th and then periodically after that about once or twice a week. He examined the wound on the occasion of his second visit and assisted the other doctor who was there when the wound was probed. At that time it was pussy, which indicates it was infected, there was an infection. The accused was in bed at that time.

You don't only have to accept the testimony of the Japanese witnesses. We have two Filipino witnesses who saw him in the hospital: one was Solidad Pastrano who testified positively she saw him there on the 8th of December, that she saw him again on Christmas, the 25th. Both times he was in bed with an injured leg. Now, I don't know what incentive you could claim with reference to that witness, that she would testified to those facts if they weren't so.

As a matter of fact, she herself risked certain things by coming up to testify to anything that is in favor of an accused Japanese. She risks the censure of her fellow townsmen, and I say to you, that is an extremely important point to bear in mind when it comes to having witnesses testify for the defense in this case, or in any case of Japanese accused as war criminals. There is absolutely no incentive in the world for this witness to assist the accused. She has nothing to gain. As a matter of fact, she has everything to lose. We have the testimony of Mrs. Peter, one of the prosecution's own witnesses, who on cross-examination by the defense testified that Nanjo was in the hospital when she went there on the 23rd yet of January. We have the testimony of Takahashi who testified as to the way in which Nanjo was injured.

I could go on in greater detail, gentlemen, and spend a long time analyzing the testimony of the defense, but I feel that if you will examine that testimony of the defense in the same dispassionate way that the testimony of the prosecution should be examined, you will find a certain basic element of consistency, and by consistency I don't mean that type of consistency which substantiates that such stories have been planned, have been gone over together and formulated -- these people haven't had the same opportunity as prosecution witnesses to formulate accounts of what happened, that, as I see their testimony has a basic consistency. It follows the testimony of one witness, fits in very well with the testimony of another witness. Oh, you may find inconsistencies there maybe slight variations of

certain dates, but that adds to its value rather than subtracts, because in the course of human events, human affairs, not all of certain events carry the same weight in our minds as they do in the minds of other people. And, some people remember certain dates, others will forget them. But, I think when you consider the testimony of the defense that there is overwhelming testimony that this man was injured at the time; that he was in the hospital with a bullet wound through his leg, a wound which completely pierced the bone, and that he was confined at that time. And, I say that in examining the testimony of the witnesses, that you will find far fewer discrepancies or inconsistencies in your defense testimony -- and that includes testimony of both Filipino and Japanese witnesses -- than you will find in the testimony of prosecution witnesses. The prosecution witnesses had far more incentive to come up here and testify in this case. They don't risk any censure when they testify against a Japanese, because they will be, as a matter of fact, they risk censure if they testify in his benefit.

Specification 4, briefly, shows us that 4- involving Francisco Villamor and Dionisio Anora were walking from Hacienda Presentacion to Matabang and when they passed the railroad track the Japanese surrounded them and arrested the two men. Primitiva Casabuena testified that Captain Nanjo was the commander and he was there. Now, she testifies that the men that were taken by the Japanese, that she was told to go on back. She heard her son cry out and then she looked back to see what was going on and she saw him being beaten, and the soldiers obstructed her

when she tried to go back there and told her that her son would be killed, and then she said she saw her son and Antero fall.

On the way home she met Gil Tanique and told him what had happened, and about six o'clock that evening they went back and found the two bodies and buried them. She had never, by her own testimony, she had never before seen Nanjo, she had nothing to go on so far as identifying the leader of that garrison or that company of Japanese as Nanjo. She further testifies positively she does not understand English, she does not understand any Japanese, only Visayan, and this is one of the interesting bits of conversation in questioning that went on with reference to her identification of the accused of Nanjo as being the person who was the leader of the Japanese. And, on Page 277, the question is asked,

"Q Who told you at that time, that is the time that your son was arrested, that the person in charge of the Japanese troops was Captain Nanjo?

"A He himself.

"Q What did he say to you?

"A He was telling me 'O.K. Patay' and I pleaded for my son telling him that my son was not a USAFFE."

A few questions later, on Page 278, the question was asked:

"Q When this person that called himself Captain Nanjo told you he was Captain Nanjo, what words did he use to tell you that he was Captain Nanjo?

"A He told me saying 'O.K. Patay' and that was when I knew that he was Captain Nanjo.

"Q Well, then, nobody told you at that time that he was Captain Nanjo, is that correct?

"A His soldiers mentioned his name, and since that time I did not forget him.

"Q What did the soldier say who mentioned his name?

"A One of these soldiers, one of the group there, asked, 'What is your decision, captain?' And the captain replied, 'O.K. Patay'.

"Q In what language did this Japanese say, 'What is your decision, captain'?

"A In Japanese.

"Q You do not understand Japanese, do you?

"A No."

It is from that testimony that the witness claimed, from those statements, that the witness claims she knew it was Captain Nanjo. She does not understand English or Japanese and yet she would have you believe that not understanding Japanese she could understand a Japanese officer who said "What is your decision, captain?" Now, just reading that hardly needs any comment so far as the statement by the witness-- that is the reason she knew it was Nanjo. Now, that just does not add up, gentlemen, because she had never seen him before and as far as we know she had never seen him since, and again when you go back and realize what happened with reference to the First Specification when the witness could identify him in court, not identifying him one day and could the next, and you notice that this witness gives testimony like that, you wonder how this witness ever connected this man, the accused, up with these alleged events. She, by her own imagination, saw him, that was the only time, on February 18, when these events are alleged to have occurred. She saw him for not more than an hour --

the only time, February 18, 1945, the only time in her life when she saw him. A time when she was not particularly concerned with identifying him, when she was concerned, she was confused, she was excited because her son was being mistreated, she says it. Yet, she walked into this courtroom and without any hesitation identifies this man, and when she is asked how at the time these events are alleged to have occurred, she says she gives this testimony that I have just read as the basis for her identification of Nanjo, and later on she even goes on and continues in that same vein. She says that a man mentioned the name Captain Nanjo. Then she says that she does not know the Japanese name for "captain". When I asked her if it was not "tai" she did not know. Gil Tanique testified that he met Primitiva Casabuena on the road, and on direct examination he testified that while he was going to his home from Granada he met her, she was crying and he asked her why she was crying and she told him of the killing, and they went to see the bodies. And then on Page 290, the question was asked "Did you see anything personally connected with the killing of Francisco Villator and Dionisio Antera -- only tell what you saw, if anything?"

"A As to the killing I did not see. What I know is that Primitiva Casabuena told me so." That was the end of the direct examination.

On cross-examination, however, for the first time he claims to have seen certain things in connection with the killing and at that time he says that when he asked Primitiva Casabuena what was happening, she told him he looked up one hundred and some forty yards, about 140 yards away he saw Nanjo with his sword raised in an oblique position over his right shoulder. That so surprised even the prosecution

that you will notice on Page 302, Mr. Aitken made the statement that he himself thought that Tanique, who you will recall also testified in reference to next specification, that Tanique had gotten himself confused on the next specification. If you will compare his testimony with reference to what he claims to have seen on this specification, and what he claims to have seen with reference to another specification which concerns April, about two or three months later, you will notice that it is a strange thing, but in both specifications he saw Nanjo do exactly the same thing. He looks up then only thinks he sees Nanjo with his sword raised. He says nothing more. It is interesting to note that too, because the nature of the wounds in the Fourth Specification were thrust wounds, but Primitiva Casabuena in testifying tells us they were thrust wounds that the wounds were on the chest and stomach. If Nanjo had been doing what Tanique claims to have seen him do, the wounds would have been a slashing wound, the man's shoulder or his head, or a portion of his body would have been slashed, would either have been decapitated or nearly so, so that the very motion Gil Tanique claims he saw this man make, is inconsistent with the nature of the wound.

I could go on further and show you that by Primitiva Casabuena's own testimony she was about thirty-five yards away when that took place, not when she met Tanique, but when her son and Antera were being killed, then she went away. By Tanique's testimony, she had already gone about one hundred yards away, had met him, had had this conversation with him, and then Tanique says when he looked up he saw

Nanjo with his sword raised. Your time element there is hopelessly contradictory because by Primitiva Casabuena's testimony she had walked over one hundred yards away at that time, and further the testimony of Tenique was that the trail was curving at that point so that he did not look straight ahead, he could only see a portion of this man's body, he was 140 yards away, there was tall grass and trees growing.

He looked up after he talked with Primitiva Casabuena for only a moment and he claims he saw Nanjo and could even recognize Nanjo's features when he saw him with the sword raised. I am not going to go into that identification. I think it comes under the same category as the identification with reference to Specification 1, and also with reference to the Specification 5, which Mr. Ward will go into.

There is another very interesting point on this witness. He had been drinking tuba since seven o'clock that morning and he had been drinking a pretty good amount of tuba. Tuba is an intoxicating beverage. I think that is a fact you certainly have to keep in mind: whether this witness was drunk --

MR. AITKEN: I would like to interfere with the counsel. There is no evidence of that and it is not entirely true.

COLONEL STICKNEY: I would like to state at this time that statements made by defense counsel and by the prosecution do not constitute evidence and may include misstatements, put in through error or otherwise, and it is not desired that they be interrupted.

MR. SCHAUER: In response to that, I will refer counsel to Page --

COLONEL STICKNEY: I want to hear your argument now.

MR. SCHAUER: On Page 321 the testimony shows he testified he had been drinking tuba, which was an intoxicating beverage, and he had been drinking tuba for three hours that morning and that is shown on Page 322. I think,

as I say, that is a point to consider: the ability of a man to testify to what he saw depends to a considerable extent on his physical condition, and when a man who has been drinking an intoxicating beverage gets up into court and says he saw one hundred and forty yards away on a curved trail, where he could only see a portion of the man's body, saw him only for an instant and recognized him as Captain Nanjo, because he could see his features-- bear in mind that Nanjo was dressed like any other Japanese-- he had on a uniform, nothing to distinguish him as an individual, other than his face, his facial expression-- I think that is extremely weak identification. And I think it throws considerable doubt upon the witness' testimony, both in this specification and in the next.

I am not going to go into the last specifications. I want to say a word with reference to the defense on the 5th Specification. The same principles apply that I stated in discussing the 3rd Specification. This is alleged to have happened on the 18th day of February and the evidence conclusively shows on the part of the defense that this defendant was in the hospital at that time. The witnesses have so testified and I believe their testimony has withstood the test of cross-examination. We have ~~hidden nothing~~ in this case. I might add that we have put the defendant on the stand. He didn't have to take the stand, but he wanted to tell his side of the case. We felt he had nothing to hide and we put him on the stand. He was subject to very complete cross-examination. Everything that he knew was brought out. That

was true of all the witnesses, and I think if you will apply the tests of reasonableness to these witnesses you will conclude that their testimony has withstood that test.

I want to say one word in connection with Tanique. There is a very interesting discussion around Page 307 about the fact that Nanjo was wearing boots. First he definitely says on Page 307 he saw Nanjo wearing boots. Remember, the trail is curved, by his own testimony, tall grasses were growing, he could only see a portion of the man's body, he only saw him for a moment, yet he saw him wearing boots. He was asked about that and then later on in the questioning when he was asked how he knew Nanjo wore boots, after testifying he had seen him wearing boots, he said he knew it because Primitiva Casabuena told him so. On the very next day he makes a positive statement again: "I saw Captain Nanjo wearing boots." I point that out -- it is just a fact that isn't really fundamental, but it shows the kind of testimony that this witness gives. It shows and it illustrates the point that I made previously, that these witnesses confuse what they have seen with what someone else has told them. I think that is an excellent example and I say that is a fact to constantly bear in mind in judging the testimony of witnesses, particularly **where the life and liberty** of a man are at stake.

The nature of the defense is principally what is termed as an alibi. The word has certain unpleasant connotations, but that is because of the misuse to which it has been put in times past. However, I just want to read a very few sentences

in one of our recognized American legal documents, "American Jurisprudence," Volume XV, on "Criminal Law," Section 315. It says: "Although an alibi, strictly speaking, is not a defense, it is frequently characterized as such. It is not an affirmative defense like insanity or self-defense, but, from an evidential standpoint, it is obviously defensive in its nature. In a criminal case it is incumbent upon the State to prove, as a part of its case, that the defendant was at the scene of the crime, and any evidence that he was elsewhere, at the time, is competent and appropriate to weaken or destroy the proof which the State must offer. From this standpoint an alibi is not only a legitimate, but may be a very complete defense. In fact, it may be the only means which an innocent man may have of avoiding a conviction. It affords, when established, the most perfect, physically conclusive evidence of his innocence." That is the statement made in "American Jurisprudence." I merely wanted to bring that out because of the aspersions and the doubts and even ridicule which is often made of testimony characterized as alibi testimony.

One of the witnesses, the prosecution will undoubtedly claim, has been coached. I refer to Oyama, the gentleman who testified -- that is the one with reference to that document which the prosecution introduced in evidence this morning. I have a word to say on that. We have nothing to hide on that witness. I think we brought out ourselves the fact that he discussed the case with the accused before coming into court. There was nothing underhanded about it and I think the prosecu-

tion felt that he was not, as they call it, an honest witness. I think that is an extreme statement to make, because any witness before he is put on the stand will be interviewed by somebody. The mere fact that he has talked to somebody does not mean his testimony is manufactured. We didn't deny that he talked to the accused here. But remember again that that man came down from Tokyo. He holds a respectable position up there -- he is a school teacher. He is not a prisoner-of-war. He is a free man. And again it is highly unlikely that a man will come down here and perjure himself in favor of someone who means practically nothing to him. I think it is extremely unlikely, knowing he is well aware of the fact that he has to act carefully these days, and it is extremely unlikely that he will perjure himself and risk his own liberty.

A number of these witnesses have testified that they have talked to investigators for the prosecution about the case. That is all right. There is nothing wrong with that. That is normal procedure. You would criticize any prosecution without adequate investigation. But they say, "We were not shown any pictures of the accused; we were not asked to describe him; we were not taken out and confronted with him." Well, we don't know whether they were or not. But I do know this: that any investigation that is worth its salt as investigation will make certain of the identity of the person involved. In other words, the investigator will make sure that the person to whom the witness has reference is a particular person and mere similarity of names means nothing.

And the best way to do that and the recognized way is to have that person see the accused or show him a picture of the accused, or at least have him identify the accused by a physical description. Yet none of this was done. Gentlemen, I can't believe that, because I feel the prosecution is much more competent than that. They have a competent legal staff and I am certain they have a competent staff of investigators. And when the witness tells me he didn't see pictures, that he was not asked to describe the individual, the identity of the individual was not even an issue during the conversation, I wonder. I seriously wonder whether that is so, because I know that proper investigation would demand otherwise.

As a conclusion, I just have this to say: it doesn't take much to convict a Japanese in these times. We are still in a period when popular opinion is still molded to a certain extent by passion and prejudice and nobody is going to criticize you or me or anybody else for being involved in the conviction of a Japanese member of the armed forces. No one will ever criticize that, if it has been done justly. Now they won't criticize it, whether it is done justly or unjustly. But time changes many things and that is one of them. I think we should exercise the greatest care to see that the decision, whatever it may be, is just and made without passion, prejudice, sympathy, or pity, but just because these records will go down and be with us for many years and a verdict which is founded upon principles other than those of justice will be a black record against us.

And it is true, it will not subject us to criticism now, but it will subject us to criticism years from now. For the very people that foster, tolerate, and promote injustice, injustice through passion and prejudice, are the very people who will turn around tomorrow and condemn it.

I wish to thank the Commission for their very kind consideration in the case, and they have been most generous in granting us continuances to enable us to get witnesses, and I am very sure and hope that they will maintain that same fairness in their deliberation. Thank you.

MR. WARD: Mr. Schauer spoke on the first four counts of the charges and specifications against Lieutenant Nanjo. I am going to talk on the next three and also cover the affirmative defense or, as Mr. Schauer termed it a little more accurately, the alibi, the strongest evidence the defendant may have to prove himself innocent.

As to the fifth specification, Lieutenant Nanjo is charged with unlawfully mistreating and torturing Tiburcio Jonote, Gil Tanique, Benito Mirivelles, and Roman Dizon, as well as to kill the said Dizon and Mirivelles. This is alleged to have occurred in the month of April 1945. That was the charge, the month of April 1945. The prosecution, of course, had affidavits which stated that this event occurred on or about the beginning of April 1945. This occurred, this general charge of a defendant in practically every

specification of the seven with, of course, a few exceptions. We complained that they were not charged specifically enough, but that complaint was overruled. However, the witnesses testified this occurred on or about 4 April 1945. It is stated by Tiburcio Jonota that four of the four Filipinos, Tanique, Dizon, Mirivelles, and himself, were captured about 9 o'clock in the morning by a group of Japanese of over 100 Japanese, under the command of the defendant, Lieutenant Nanjo, at sitio To-Ong. That they were brought to Magbuyo, Dizon and Mirivelles had their hands tied, while Tanique and Jonota, our two witnesses, were unbound. They were following along behind the groups of Japanese carrying some of the equipment of that Japanese unit. Tanique states that he and Jonota were eighty yards approximately from the leading squad, they were in the rear. That discussion is on page 386, that he and Tanique were carrying the loads. He describes later on what he saw as to the death of Dizon and Mirivelles in this fashion, page 393:

"Q What did you see there?

"A The first squad immediately surrounded our two companions and I think because they were mad for our having escaped -- that means I and Gil -- they killed them.

"Q Where was Captain Nanjo at this time?

"A Captain Nanjo was standing in the place and in front of him first was Dizon and with his saber he hacked him.

"Q Where?

"A At the back of the neck.

"Q And what happened to Mirivelles?

"A He also killed Mirivelles."

The estimated distance of the witnesses from the place he alleges he saw this event happen is described on page 407, he was asked "How many meters would you say it was from the edge of the river at the point where you escaped from the Japanese"? and he answered, "I think in my estimate I think it is about more or less 100 meters." On page 410 he was asked: "

"Q The bank of the river at the point where you went down at the time you escaped is how high above the level of the water?

"A I think the height was around fifty meters.

"Q About how wide is the river itself at the point where you went down the bank?

"A From the edge from where we crossed up to the opposite edge, I think was about four meters."

And he goes on to describe the other bank was approximately fifty meters as well. He describes the landscape on about page 415 as various types of grasses, shrubbery, trees, covering the landscape. He describes he saw approximately 100 Japanese on the far side of the river. He also describes a scene that he saw and it was drawn by the Commissioner -- it is now Defense Exhibit A, and he saw also a group of Japanese surrounding Captain Nanjo, and the two deceased members, Dizon and Mirivelles. He describes these Japanese as

being many in number and being scattered, hit or miss, around this small group. That is what he saw when he viewed this scene. He states that he was looking down upon this scene, he was on the far side of the bank of the river and he looked down and he saw what was happening. He is able to describe this situation very well. He stated there were Japanese all around the defense, they were scattered a little far away and that they were killed by the hacking with a saber and with the stabbing by a soldier with bayonets. He also described the killing of Dizon in this fashion on a page 427: "Dizon was in this position kneeling with his hands tied behind his back and stooping.

"Q Now, he had his hands behind his back, did he not?

"A Yes.

"Q And you say they were tied there, is that right?

"A His hands were tied behind his back.

"Q Could you see the rope or the string which tied his hands?

"A Yes, I saw.

"Q About how tall was Dizon?

"A He was tall as I am.

Mr. Aitken and myself stipulated that that was about five feet, two inches. This is to be remembered, that he saw these events from a goodly distance away.

He agreed also that when they made their escape that he and Tanique were carrying these loads and they were approximately sixty meters behind the last group of

Japanese ahead of them, so when you add this distance to the other distances he mentioned, as I will later on add them up for you, it was around 200 yards or meters and he describes the event in this fashion or detail. He also described again Captain Nanjo was there in spite of the fact there were tall grasses around where he describes these events in meticulous detail -- that description was on page 481. On page 475 I mentioned a minute ago, he stated he was looking down on the scene and the question was: "Was the place where you were hiding higher or lower than the place where Captain Nanjo was at this time?" The answer: "Yes, the place where we were hiding was on a higher plane than the place where Captain Nanjo was."

"Q Were there large trees or shrubs around the place where Captain Nanjo was?"

"A There were cogoon, shrubs, and other grasses, but they were not very high."

On page 476 he describes again the event that occurred, only a little differently.

"Q Did you see Captain Nanjo do anything with the sword right after he had it up over his shoulder?"

"A From the time when I saw him raise his sword over his shoulder, I saw him hacking Dizon."

"Q Where did he strike him?"

"A He hit him above the neck, at the back of the neck."

You notice he tells directly that Dizon was struck at the back of the neck. This wants to be

compared with the testimony of Dizon's daughter when she saw him later on the same day, and the type of wound she describes, and the fact she also viewed the back of the neck and saw no wound. It was also indicated by Jonota that Dizon was also bayoneted on or about the chest. He stated he saw Captain Nanjo use the saber, but the soldiers used the bayonet. On page 478 he describes Mirivelles at that time:

"Q At the same time or shortly after you saw Captain Nanjo strike Roman Dizon with the saber, did you see anything happen to Benito Mirivelles?

"A At the time when Dizon was struck by the saber by Captain Nanjo, Mirivelles was standing near with his hands tied at the back.

"Q Could you see his face?

"A Yes.

"Q Did anything happen to Mirivelles shortly after that?

"A Mirivelles was killed.

"Q By whom?

"A Mirivelles was killed by a soldier."

This wants to be compared again with the same scene. The scene at the same time by Gil Tanique, our last witness, Gil Tanique, also testified on Specification 4 as well as Specification 5. To go on:

"Q Mirivelles was killed by a fixed bayonet by one of the soldiers?"

Also describing the scene, it is very interesting

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to know how much was imagination, how much did he actually see? On page 485 Jonota states:

"Q When you saw Dizon struck with a saber, and Mirivelles pierced with a bayonet, how do you know that they had been killed? How do you know they were dead?

"A Because they fell on the ground.

"Q After they had fallen, did you see them move?

"A Yes, they moved.

"Q Did their movements indicate to you that they were attempting to get up?

"A I could see that they could not stand any more because of their wounds.

"Q Did you see any blood come from the wounds?

"A From the place where we were hiding, as soon as the saber was struck on Dizon I could see blood."

Again, we must remember that this man was about 280 yards away. That is almost twice the distance, if we are to believe his direct testimony, then when the man, a workman was standing on the scaffold of the Army-Navy Club and we could not recognize clearly what he had in his hand and whether that man was a Japanese, American, or Filipino. Yet, over twice that distance Jonota could see that there was blood coming from Dizon after he was struck -- that is page 485. It is also interesting to note that on page 475, just before he gave this statement, that he testified he could only see the witness Captain Nanjo up to the knees; he states:

"Q When you saw Captain Nanjo with the sword raised over his shoulder, could you see all of him or could you

see him from the waist up or how much of him could you see? "

COLONEL STICKNEY: The Commission will adjourn
and reconvene at 1300 hours.

(The Commission recessed at 1130 hours, to
reconvene at 1300 hours.)

A F T E R N O O N S E S S I O N

(The Commission reconvened, pursuant to recess, at 1300 hours.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecutor, defense attorneys, the defendant and his personal interpreter, and the reporter are all present in the court.

MR. WARD: Just before the recess I was reviewing the testimony of Jonota and he had previously stated he could see the man, Dizon, struck, and the fact there was blood coming from those wounds. On page 485:

"Q After they had fallen and were lying on the ground, did you see any blood come from the wounds?

"A From their wounds I could see the blood coming." However, on page 475, the question was raised how much of Captain Nanjo he could see at that time, and he answered that as he was standing he could see up to this part, and he indicated just above the knee. Those two facts are again irreconcilable. For one thing, how could he possibly see the fact that there was blood coming from the wounds -- first, because the distance was far too great, secondly, he states himself he could not see anything above the knee and yet he saw this blood coming from the body of Dizon while he was on the ground. This goes to the weight of this man's testimony. If he will state this is what he sees, how are you going to be able to tell that he saw the man, Nanjo, himself there? Or was it something he imagined, something he was told, or something which he wishes to have the Commission believe?

We endeavor in these cases to give the witness the greatest possible latitude and believe he is being truthful as much as possible. These men, these witnesses, from Negros, speak Visayan, they are primitive and cannot tell in their own minds what they are actually seeing, against which they have been told and what they imagine is a logical sequence of primitive facts. He could not see that man lying on the ground; yet he testified positively that he saw blood coming from those wounds. These facts are irreconcilable.

Again, he describes the scene of Captain Nanjo on the hill with Dizon and Mirivelles and states he was looking down on this group. That was brought forth on pages 494 and 496. He looked down and saw this scene happening. In a few minutes we will be in the testimony of Gil Tanique, and Gil Tanique states he looked up and saw this witness and Gil Tanique describes an entirely different scene. To confirm the distances which Jonota had described as between himself and the men on the hill, he stated the various distances: sixty yards or eighty yards that he was behind the group, downhill over to the bank of the river another one hundred meters, down the bank of the river fifty meters, and about fifty more meters up the other side. When asked the question on page 500: "Q How far was it from the place where you were hiding to the top of the bank of the river on the other side?" he answered, "I think the distance was about from this place where I stand up to that building where you can see the chimney top." And that was estimated at 125 yards. That was across the river to the far bank and yet again he testified he had run one hundred yards further than that.

This merely confirms what he was testifying to as to distance. Gil Tanique, seeing the same scene, gives this version of what occurred: he states that he was able to see Dizon and Mirivellles and he could see them being killed from where he was hiding. This is on page 520. He saw Captain Nanjo. And when asked to tell what he saw, he said:

"A They were killed by the hack of the saber of Captain Nanjo.

"Q Did you see him use the saber?

"A Yes.

"Q Did you see him strike anybody with it?

"A He used it against Mirivellles and Dizon."

Here again is another completely irreconcilable fact. Jonota testified that it was against Dizon only that the saber was used. Now we have Tanique testifying that both were struck by the saber.

"Q Which one did he strike first?

"A Roman Dizon.

"Q Did he also strike Mirivellles?

"A Yes.

"Q After that what did you do?

"A After those two men fell the Japanese marched away and we also went home."

Later on he came back with Natividad Dizon and examined the bodies, and when he was asked about the wounds:

"Q What did you see on the body of Dizon, with reference to wounds?

"A His wounds were located at the back of the neck and here (indicating the center of the thorax).

"Q What sort of wound was at the back of the neck?

"A It was caused by the saber.

"Q What was it? A thrust or a cut?

"A Through a cut or hack."

This again wants to be taken with the testimony of Natividad, when she was with Dizon at this time, having also helped bury the bodies, and she describes the wounds completely differently. There was no hack, no wound at the back of the neck. This is again an example of primitive logic.

This man has testified that these men were killed with the saber. He testified the same way on the fourth count. After he had finished direct testimony in the fourth count, he stated he had seen nothing more. Yet, upon extensive cross-examination as to the wounds of the two bodies that were killed in that count, he described those wounds and insisted that those wounds had been made with a saber. When we tried to break him down, his last rationalization was: "I saw the wound happen; I saw Captain Nanjo raise that saber." At that time with further testimony from Tanique, Mr. Aitken was under the impression that he was testifying to the fifth count. That is an example again of primitive rationalization, primitive logic. He had to describe this cut at the back of the neck to substantiate his former testimony, regardless of the fact that a subsequent witness, a person with him at the same time, states there was no such injury. In describing how he saw this series of acts upon the hill, he states, on page 548 and 549:

"Q By 'up in the hill' how much higher up in the hill were they than your hiding place?

"A The place where they were gathered around was higher than our place."

In other words, instead of looking down upon the scene, as the previous witness had done, he was looking up. Again an irreconcilable difference. Did these men actually see this happen, or is it a fact that the men were killed, that they are now trying to place the blame on some Japanese? The same scene as you heard described a minute ago as Jonota's testimony, of which we have the diagram as drawn by the Commissioner, describing a bunch of Japanese with the central object being the defendant and Dizon and Mirivelles, you now have a scene described by Tanique, page 555:

"Q In this group of soldiers on the hill where was Captain Nanjo standing?

"A He was standing in front of Roman Dizon.

"Q Where were the rest of the Japanese soldiers, the approximate one hundred?

"A They were behind Captain Nanjo.

"Q Were there any in front of Captain Nanjo?

"A Near him?

"Q Were there any between Captain Nanjo and yourself?

"A I was not able to see any soldier but I saw Roman Dizon.

"Q All right. From your position at the tree were there any soldiers standing between Captain Nanjo, Dizon, Mirivelles, and yourself, or were they all standing in a semi-circle behind them?

"A The soldiers were standing behind Captain Nanjo in a semi-circle.

"Q Where were Dizon and Mirivelles standing in relation to Captain Nanjo?

"A Behind Captain Nanjo were the soldiers and in front of Captain Nanjo was Dizon standing."

If you will remember the testimony given by the same witness, when he described how the fourth count was committed, you will understand that it was committed exactly the same way. The soldiers, about ten of them in that count, were in a semi-circle behind Captain Nanjo. The two boys had their backs to the witness, Captain Nanjo was facing the witness, so that he could get perfect identification, regardless of distance and regardless of the bushes and trees in the way. In other words, he sees these events happening, as if they were up on the stage. The background of the soldiers and the primary objects are in the center of the stage. He describes both counts the same way. It is not only improbable that that happened this way, it is practically impossible. This man is using nothing else than his imagination when he describes this part of the event. And it is noticed, too, when recognizing Nanjo he doesn't recognize Nanjo by his outfit, by his soldier's uniform. On page 584, he states he knew Captain Nanjo at this time:

"A I knew him because of his face."

At that distance he is willing to testify he could recognize the features on a face. At a similar distance we pointed out on page 588:

"Q Do you see that man working at the top of the scaffold over there?" (At that time we were indicating the top of the Army-Navy Club and the scaffolding at the top of that building. We were in Court No. 3.)

He answered:

"A Yes."

"Q Is he a Japanese?"

And further on the answer was:

"A I cannot tell whether that man is a Japanese or a Filipino, because a Japanese and a Filipino are about the same appearance."

"Q Can you tell what type of implement, if any, he has in his hand?

"A It seems to me he is having in his hand a wood."

On page 589:

"Q Is it not a fact that most Japanese look very similar -- look alike?

"A Yes."

The following day there was some discussion between Mr. Aitken and the Commission, whereby Mr. Aitken stated that the previous day had been cloudy and that he wished the state of atmosphere to be placed in the record. We had some quibbling, which is of no importance here, but as a result of that the witness was again asked this question on page 613:

"Q Calling your attention to the scaffolding on top of the Army and Navy Club, as you did yesterday, can you distinguish if the workman on that scaffolding today is a Japanese, Filipino or an American? Take lots of time and give us your answer."

A "At this time I cannot see very well because my forehead is aching and my eyes are not clear enough to see." That is sufficient. Mr. Aitken, at the time in question when asked if that day was a clear day, stated, "No, I am not making any stipulation. I will say it is a very nice clear day now, if that is desired in the record." A nice clear day, and he could not even see whether the man was an American, a Filipino, or a Japanese, and if you will remember at that time he stated that our Filipino interpreter looked very similar to Captain Nanjo. Yet, he is willing to take the stand and testify that ~~the~~ same distance, which distance, by the way, is testified by Jonota to be twice that, he is willing to state on the stand that he recognized the man by his face at a distance which is, he admits here he cannot say. We each of us looked up there and it was impossible for me, and I have excellent vision, to recognize whether the men up there were one nationality or another. On this expedition he stated on page 603, the witness stated there were about one hundred men there in that group, and many of them wore pistols and sabers. He states this as he saw it, but when asked how many, he stated there were many of them. He could not tell how many and, again, it was primitive logic in fact, because he states there were many men, there had to be many officers.

This testimony is so evident that listing for the sake of argument that the witness did see the events as he so testified, in spite of the fact there is no similarity in the testimony of the two witnesses as to how it happened except, of course, that the defendant Nanjo did it. These witnesses positively could not identify a man

at that distance. The events as they occurred up to the time and including the time he escaped from the trail to their hiding place on the opposite bank, are related clearly. They are not mixed up on cross-examination. They go over this step by step and they are accurate, both of them joining, giving us facts, together, but when it comes to seeing the events on the hill now they begin to differ. Those men did not see those acts on the hill. The men were killed, yes, we are not doubting that. That fact did happen, but did they see it in a different manner from the way they testified, one looking up the hill, one looking down the hill, the acts as described. Nanjo cutting both in one instance, and one in the other with the saber, and in a few minutes you will find that Natividad said that neither were cut with a saber. That is pure imagination. Natividad went with Dizon to the place where those two men were killed. As I stated before, it is not the purpose of the defense objecting to the fact that the men were killed -- they were. There is no doubt about it. But the way they were killed is what we contest. She states on page 642, indicating her father, that there was a small cut, two small cuts, in fact, near the right nipple. This is also described on page 643 and the length of the cuts were about one-half inch. If you remember Mr. Schauer indicated with his fingers about two inches. The witness indicated a half inch. She was asked on page 645,

"Q Do you know whether there were any wounds on the back of his neck?

"A No.

"Q You say there were no wounds on the back of his neck,
is that right?

"A No."

On page 649:

"Q Did Tanique tell you that the wounds on your father's
body had been caused by a bayonet?

"A Yes.

"Q And it was Tanique, was it not, who told you that
your father had been killed by a bayonet?

"A Yes."

She states also on page 657:

"Q Did you see any blood on the body of your father
while you were helping Gil Tanique bury it?"

She answers "Yes" again and indicates it was on the breast.

"Q Anywhere else?

"A No other else."

Indicating the body of Mirivelles on page 657:

"Q Did you see any blood on that body?

"A You mean Mirivelles?

"Q Yes.

"A Yes."

And she indicated it was on his shoulder.

"Q On which shoulder?

"A On the right shoulder.

"Q Anywhere else?

"A No other else."

This directly contests the fact that Tanique and Jonota saw a scene in which these men were killed by a saber. That again shows that it was their pure imagination when they state they saw that scene. On page 660 we also ask:

"Q Did Tanique call your attention to the wounds on your father's body?

"A Yes.

"Q And he pointed out the wounds to you, did he not?

"A Yes, those wounds on the breast."

And yet when Tanique testified that he had gone in the hill to the bodies with Natividad Dizon he stated that Dizon had a saber cut on the back of his neck and that he did not see the wounds of Mirivelles. Although in fact he admitted burying them, such a wound could not be missed, it was either there or it was not -- in this instance it was not.

Before the Commission can reach any sort of an intelligent decision on the Specification we must have some idea what occurred. After the escape and including it, as mentioned a minute ago, these two witnesses are completely accurate. From there on their stories are as far apart as the world. There is no connection between the two. You would not know it was the same events being related. And yet they were together all this time and alleged to have seen the same thing.

To recapitulate, very briefly, to the very same thing, on page 386 he was eighty meters behind the leading squad before they made their escape. Page 407, it was one hundred meters to the edge of the bank. Page 410, it was fifty meters down one bank. Page 411, four meters across the stream.

The same page, fifty meters up the other side -- that totals 284 meters. Exactly what detail could you see or I see at 284 meters from the scene of a crime on a tropical island in which the undergrowth is obviously quite large. Each of you have been out in the various areas around Manila and we are a good many degrees above Negros. You understand how deep that growth is there, and yet at 284 meters this scene was described. Jonota, on page 494, said he looked down at the scene. The scene as he described it was in Exhibit C. He described, in his own words, on page 476, it as a hack by the sword on the back of the neck; and Mirivelles' death on page 478 was by bayonet. Tanique, on page 553, states that he was 125 meters from the scene, about the same distance as across the bank, less than one-half of what Jonota states. He states that he was looking uphill, on page 548, and he described the scene as this, which we have previously gone into. He describes the deaths of Dizon and Mirivelles as having both been hacked by the sword of Nanjo. Natividad describes the wounds as these two half-inch cuts on her father, page 645. No wounds at the back of the neck. On 649, she states Tanique showed her the wounds and told her they were made by a bayonet and not by a saber. Mirivelles' wound was on the right shoulder and "no other else."

These men had friends killed. They are trying to make some Japanese pay for it. It does not make any difference to them -- this is their testimony.

Mr. Schauer in his argument stated, as for the sake of correction in the argument by the defense, that Toriano's body was discovered in November 1944 and dug up by his wife.

Upon checking the record, he wishes a correction to be made -- that it was November 1945. Therefore, instead of being four months it was a year and four months. It was more reconcilable to the fact there were merely bones at the time.

Specifications 6 and 7 -- Nanjo is charged with unlawfully killing Dionisio Letosa the 5th day of December 1945, and because it is the one witness and he testified to the whole thing on the seventh Specification, he said that on the 8th of December 1944, that several Filipinos were killed, executed, and he is charged with the killing of an undetermined number of Filipinos with Felix Amador, Felicito Alba, Pablo Palomo, and attempted to kill himself, Marcos de Tomas. He states that he was arrested on December 5, 1945, together with Letosa and four other Filipinos at Hacienda Carmen and was taken to Boroboro and returned to Granada the same day. On the way from Boroboro to Granada they passed Hacienda Francisco. Letosa was killed by an officer designated by Marcos as the defendant Nanjo. From Granada the remaining five were sent to Boroboro by truck, where they spent the next three days in a cell. Then they were taken out in military formation and executed with the officer in charge of the execution again being our ever-present Lieutenant Nanjo.

On page 683 and 684, referring to the arrests on December 5, 1944:

"Q Did you recognize any of the four of the soldiers with Nanjo as soldiers coming from the Boroboro garrison?

"A I cannot tell whether these four companions were soldiers from the Boroboro garrison or from some other place.

"Q Were any of these five officers?

"A Yes, there was Captain Nanjo.

"Q Did you recognize any of the other four?

"A I cannot recognize the other four."

To show that this was more or less a regular group from the Boroboro garrison, Marcos states on page 684:

"Q When you arrived at Boroboro, where did you take the coconuts?

"A We brought them to the Boroboro garrison.

"Q Where was Captain Nanjo then?

"A He was there inside the garrison."

The whole purpose of the prosecution at this time was to show that these men came from the Boroboro garrison, that Captain Nanjo, our defendant, was still in charge of that outpost.

The facts as testified by Marcos more or less lead you to believe that those were the men garrisoned at the Boroboro outpost. That we will not contest. However, at this time Captain Takahashi had been moved to Victorias with Nanjo on or about 27 August. Remember now, the Specification is December 5 and that the Hori battalion had taken over security duty of the whole area, and on or about October 26, 1944, that was a goodly time before this Specification was alleged to have been committed. The whole battalion had been relieved of duty of this area and the Yamaguchi battalion had been transferred to Bago, in lieu of going to the island of Leyte on or about the 1st of December, and the Takahashi company had come down from Victorias to Bago on or about the 5th. These facts were testified to by Captain Takahashi and corroborated by several others. Therefore, no matter how you are going to slice this situation, try to logically reason out what did happen, it is a certainty that Nanjo was not there.

As to the location of this execution, this is quite a material point. On Page 676, the question was asked:

"Q Now, where was this hole? In what part of Bacolod, in the city, whereabouts?"

"A I cannot tell what is the name of that locality where that hole was situated and where we were brought. I could remember, however, that it was in the vicinity of a church which they said was owned by a doctor nick-named Toning."

On Page 697:

"Q Do you know where the vicinity of the church owned by Doctor Toning is?"

"A I know the place even if I have to go there now."

On Page 698:

"Q Do you know where the market place in Bacolod City is?

"A Yes.

"Q As you go north from the market place you turn to the right or eastward and you go to Granada, is that not right?

"A From the market place, as you go north, you will again turn towards the east.

"Q Was the church you are referring to north or south of the market place?

"A That is far south of the market place.

"Q Is there a river near this church?

"A There is a river still south of that church."

Now, we have had several witnesses testifying as to what units were located in the City of Bacolod. It is to be noted that the Takahashi headquarters, when it was stationed in Bacolod, was to the east of the market place, about one kilometer, that the Yamaguchi headquarters was to the north of the market place, and that the various other groups, and there many others named, were near the Takahashi headquarters -- that only one group, one outfit, was to the south of the market place. And it is interesting again to confirm that by the Lupit River. It is a little bit to the south of the Kempei Tai headquarters. This is the Kempei Tai headquarters at Bacolod, which was the head of the whole Negros Island.

When testifying as to the type of execution, Page 700:

"Q Were the soldiers you saw about you in military formation?

"A I did not observe, because they would hurt you if you look around."

But, in further stating, it was noted:

"A Yes, we were followed by the soldiers and there were others on our sides while we were marching to the pit.

"Q Did you hear the sounds of a drum at that time?

"A No, I did not hear.

"Q And the rest of the soldiers you state were around this area that you estimate to be more or less than one hundred -- where were they?

"A They were some distance from us, as we were near the pit."

This witness, Marcos de Tomas, states he was kept in a cell three days and there had been no investigation, nor any trial. Of course, it was interesting to note that he was not in a position to know. By this what did he mean? A trial as we know it in the States? No. A trial similar to a court-martial trial? No. A trial where the accused can face his accusers and cross-examine them? No. A trial which is really an investigation of a fact-finding board and reviewed by a military officer to decide his fate? That might possibly be it. Such a thing probably happened here during the three days that he was kept. And it is to be noted a similar situation is in our letter of 5 December 1945. This is not a trial, as we know it; this is an investigation by a fact-finding board, reviewed by a superior officer known as reviewing officer. No live witnesses need be brought to face the defendant in this type of hearing. It was done in this case, but that is not necessary. This occurs often in Tokyo and it occurs in this theater as well, and I invite the Commission's attention to the United States vs Sentaro Yamaguchi, Kiyoto Tasuki, Koziro Tsuda, and Isaburo Suguwara. These were all sentenced to death by Colonel Hamby

on the strength of a few affidavits and no witnesses.

Now, note these facts as Marcos gives them in conjunction with the troop movements -- not merely company movements, but battalion movements. These movements cannot be faked. There are too many ways of cross-examining such happenings. These movements of company and battalion actually did occur. The prosecution did not try to rebut these statements in the least during the course of this trial. They have the papers and the affidavits that would enable them to do so. In fact, when the master sergeant or sergeant major under Colonel Yamaguchi testified, he was not even cross-examined, because these facts are alleged to have been so. The defense does not deny that Letosa was killed and Marcos was bayoneted and his friends executed, regardless of the technicalities of whether or not they had sufficient trial in view of the Rules of Land Warfare. Nanjo did not do it. He was not there; his company was not there; even his battalion was not there.

This should be sufficient in itself, but further we show that Nanjo was wounded in a different part of Negros on or about this time in line of duty and Marcos says nothing about a wounded Japanese searching him and his friends from Hacienda Carmen to Boroboro, from Boroboro back to Granada. The Japanese who led this unit at that time -- whether officer or sergeant major, they wear the same type of clothes as we have had described -- it wasn't Nanjo. It has been testified at this time that it must have been a member of the Hori battalion. Further yet, Marcos described the execution as near a church, south of the market place. The only Japanese

military unit located south of the market place was the Kempei Tai headquarters. Therefore, as this was an ordered execution described by Marcos, the men and soldiers came on either side of him, they took him over to the hole, there was a military formation and an officer standing over to the right, lined with a group of one hundred soldiers. This was an organized execution and the only area that could possibly come within the jurisdiction was that of the Kempei Tai. That was the only area down there and when you look at the amount of men present, it had to be an ordered execution by that outfit.

Finally, as to Marcos, he was badly wounded and his friends killed. Whether rightly, or wrongly killed, with or without trial, guerrilla or not, these facts occurred. When he took the stand, it was obvious enough that he wanted retribution and some Japanese officer, the right or wrong one, is going to have to pay in kind for the acts he suffered. He was bayoneted. He showed his wounds. He may or may not have had them with the proper investigation. We need not go into the facts whether or not he had, but Marcos was wounded. Nanjo could not have done these things. His whole battalion company and himself were in a different part of Negros at the time he was wounded.

For the defense, we have quite a few witnesses testifying before the Commission. We have Yamanouye, who states that on or about April he was down at Bago and because the Americans landed he was driven up towards Bacolod and the Japanese defensive positions, and he saw Nanjo at the Japanese defense positions in the Mandalagan Range, the midnight of the third or early morning of the fourth. The Fifth Specification states that occurred on the fourth, and

the witness when testifying and replying as to how many soldiers or how many groups of soldiers he saw after the group that had taken the four of them -- Mirivalles, Dizon, Jónota, and Tanique -- he states he saw no more groups of soldiers after that one. Yet, it is a fact that approximately after the last group or near the end headed by Yamanouye met Nanjo in the hills on the third or morning of the fourth of April. We have this officer as well testifying as to what group was in control of the Bacolod area at that time.

We have again Solidad Pastrano, a restaurant owner, as reviewed by Mr. Schauer, testifying she saw Nanjo in the hospital on the 8th and on the 25th. These are facts. Doctor Kenda testified that he also saw Nanjo in the hospital between approximately the 1st and 10th of December, as to the first time he described the injury. These men were thoroughly cross-examined, as was Solidad Pastrano. You know whether or not their testimony showed a logical sequence, how well they could describe their moves. They told you the truth. They had no reason to lie, nothing to gain by it and everything to lose. Doctor Kenda also stated he saw Nanjo on the 29th of March in Lourdes in a wounded condition and attached to the medical doctor at the dispensary which was stationed at that place; and that he knew the wounded men had been taken to the hills on or about the 30th. At that time he states Nanjo was walking with a cane.

You have Lieutenant Oyama stating he was attached to that dispensary from about 20 March to the 29 and he lived with Nanjo at that time. Those facts cannot be faked.

He states again he went with Nanjo with the rest of the wounded men to the Japanese position in the Mandelagan Range; that they traveled at night, which you notice again is different from the Specification 5, where the witnessess testified it was during the day. In fact, it was in the morning that he went back and got Natividad and went up there.

That group could not have been the group that killed Dizon and Mirivelles. In addition to that, no wounded men were ever mentioned by the witnesses in that Specification. Captain Takahashi, of course, I admit, is a prisoner of war and a convicted one, but he withstood very rigid cross-examination. If he had been lying, certainly your cross-examination of other witnesses would have brought that out. Disregarding practically all of his personal interest which might have been concluded to be present against a junior member of his forces -- at that time he was in the best position to know what the movements were of that force. As to the movements of his company in general and its duties and other duties of Lieutenant Nanjo, he testified clearly when Nanjo was at Boroboro what his duties were during the rest of the period, and that evidence has to be believed. It has not been rebutted by any witnesses on the stand that were in a position to know what actually occurred. These movements as testified by Captain Takahashi and the remainder of the witnesses are certainly subject to check by Mr. Aitken. He has that information, he should have caught them up in any lies and brought the affidavits of their men who knew the situation at that time for other prisoners of war that would not know the facts in this case; they would have refuted it, he would have had affidavits against it that these movements occurred.

He had two doctors on the stand that stated that this wound went through the bone, as testified by Dr. Kanda. If no complications set in, that he might have been up in a few weeks. But, however, it was noted by Dr. Kanda that there was pus in the wound when he saw it. And by the doctor on

the stand he stated there was no infection, but he admitted there might have been. And, furthermore, he stated that there was new growth around the actual hole in the bone and that there may have been a low grade infection at that time which he could not possibly see due to the new growth. This testimony, of course, has to be confronted with the testimony of the various people, including prosecution witnesses that saw Nanjo in the hospital, and when you consider the fact that these witnesses saw him and talked to him, and against the opinion of a doctor that has an x-ray in his hand who knows nothing of the conditions, the unknown facts are so great that it would be impossible to diagnose what did happen -- plus the fact it is unknown what complications there were -- you have to give the testimony of these doctors its correct weight.

In summarization it is unusual in this case, we have more than a negative defense that is usually given in these cases. We have an affirmative one, a positive one which fortunately enough we have witnesses to prove. First, by Captain Takahashi -- he testified as to Nanjo's condition, and at the time of Specification 1, January 17, Nanjo was in Bacolod, not at Boroboro.

The number two sergeant major who was in charge of that area there at that time, those specific dates, a couple of days Corporal Nakatani was in charge of that area, as Nanjo, Takahashi, and the sergeant major that was usually the head of that area had gone on a trip for coal. This is substantiated by the prosecution's own affidavits.

Specification 3 -- on the 21st, Takahashi saw Nanjo at approximately that time in the hospital. He had been there since December 6th.

Specification 4 -- February 18th, 1945, Nanjo was in the hospital. Again at that time we not only have Captain Takahashi but we have all of these witnesses to prove that.

Specification 5 -- April 4, Nanjo had arrived at the Jap positions in the Mandalagan Range and had been there a couple of days and was still in poor shape, using a cane to negotiate.

Specification 6 -- on December 5, Nanjo again was on the way to Bago and these movements have been substantiated -- again with no rebutting evidence as to the movements of these troops.

Specification 7 -- on the 8th it is well testified to that he was in the hospital at that time. Captain Takahashi's testimony again will receive little weight if it were not so substantiated, although it actually should receive more. We have Mrs. Beter, of course, although a reluctant witness, she again testified Nanjo was there on the 23rd. Hifume Tanaka, the sergeant major, his testimony was not even cross-examined but merely given its full weight. Colonel Watanabe again testified as to the troop movements of which this man was a member and these movements cannot be denied.

And, last of all, you must take a look at the man and the boy when you are going to consider the testimony against these acts as listed in the Specifications. When confronted by any defendant you look at him, know his background, his education, where he comes from, North Tokyo -- north of Tokyo -- he has an agricultural college education. He had been

in the Army only a little while. He was not a Regular Army man nor trained that way, and you have had an opportunity to cross-examine him severely, the opportunity to catch him up if he was telling a falsehood, plus the fact of evaluating him as a man, or boy at that time. Then you say to yourself, "Could he have done these things in evaluating all the facts you have before you." When you arrive at the complete decision, then you make up your mind. Beyond a reasonable doubt did this man do these acts, and when you evaluate the defense's testimony and evaluate that which has been presented by the prosecution, then you find out if in your own minds, beyond a reasonable doubt, you can find this man guilty. These records, as Mr. Schauer stated before, are going to be looked at severely, especially severely if we ever have another war, and we have to keep our wide American justice equivalent to stateside justice when viewing this man. I thank you.

COLONEL STICKNEY: Does the prosecution wish to address the Commission?

MR. AITKEN: Yes, we will continue on.

COLONEL STICKNEY: The Commission will take a five-minute recess.

(Short recess.)

COLONEL STICKNEY: The Commission is in session.

MR. AITKEN: If it please the Commission, I want to say that we have been listening to argument here now since 8:30 this morning, and I appreciate the fact that the Commission will be human, the members if they were not tired now and if each one was not materially saying to himself, "I hope to the goodness the prosecution attorney in answering his argument will be just as short as he possibly can." Well,

I know if I were one of the Commission I would feel that way because I am tired myself and I will try and make this just as short as I possibly can, and in doing so I wish the Commission to bear this in mind that it is not because I will admit details, because I don't think them of any relative importance, or because I want to time, but I know that this Commission does not sit here in the sense of an ordinary layman's jury.

It is a court. I believe I am satisfied that every member of this Commission at this stage is as thoroughly able to summarize and evaluate the evidence that has been presented in this case before it without having it brought to them by a long narration, etc., as I am. I feel I could sit down and say nothing almost and at the same time the defendant would get the same treatment, the same consideration, the same justice as he is entitled to.

I have divided my arguments into three sections somewhat. The first I have called, "The Time Element in Criminal Cases." The second deals with certain contradictions in main matters. I have not the slightest intention of going through the testimony of all these witnesses with a fine hair-comb to find out just where and where not there have been discrepancies and contradictions, because you can't have a dozen native witnesses, some of whom are slightly educated and some of whom are not educated at all and you can't pit them for hours and hundreds of pages of testimony against trained lawyers who have an education and expect the contest to be an equal one and that the trained lawyer can't get certain discrepancies in the testimony or certain contradictions, and so forth. That wouldn't be human if it was so.

Now, a crime involving a killing is provable by two classes of evidence. We have the direct evidence of eye-witnesses and by circumstantial evidence. Where there is only circumstantial evidence to go on, in order to convict the perpetrator two important elements must be established: first, the fact that a person died by unnatural means that

exclude the conclusion of suicide, and second, that some certain individual was the perpetrator.

In the case of Nanjo we have some seven specifications. I will deal with these specifications separately, but because the 3rd, 4th, 6th and 7th have had the same alibi imposed as a defense I will direct my argument as to them as an entirety, insofar as that defense is concerned. The 1st, 2nd and 5th Specifications have specific, special alibis interposed relating to each of the three specifications. Consequently, I must refer to them separately.

The term alibi as I am using it is the strictly legal one, not the popular one meaning any kind of an excuse.

At this point I will diverge for just a second. Mr. Schauer this morning said something in explanation of the alibi as a defense. I want to compliment Mr. Schauer on as nice a presentation of a case as I have heard in a long time. He has done a magnificent job and he has done a job throughout this case like a lawyer and gentleman and I think he is entitled to any compliment that can be paid him and particularly as to his presentation this morning. The term alibi as I am using it is the strictly legal one, not the popular one meaning any kind of excuse. In this connection and as referring to all seven specifications I quote from the 15 American Jurisprudence, Page 14, Section 314. It is for counsel on his desk here.

"The significance of the word 'alibi' indicates that line of proof by which a defendant undertakes to show that he did not commit and could not have committed the crime

charged, because he was not at the scene of the crime at the time of its commission. It is a physical circumstance and derives its entire potency as a defense from the fact that it involves the physical impossibility of the guilt of the accused; and an alibi which leaves it possible for the accused to be the guilty party is no alibi at all."

Bear that in mind: "And an alibi which leaves it possible for the accused to be the guilty party is no alibi at all." Don't take that to mean, however, that an alibi must be proven beyond reasonable doubt. That isn't required and the Commission would be in error if it thought that for a moment. The important thing is that an alibi which leaves it possible for the accused to be the guilty party is no alibi at all.

The defendant offers as his alibi in defense of Specification 3, which accuses him of the brutal mistreatment, torture and killing of Faustino Alindog and Ricarido Alindog on December 21, 1944, or thereabouts, and of Specification 4, which accuses him of the brutal killing of Roman Dizon and Benito Mirivelles on or about 18 February 1945, and of Specifications 6 and 7, which accuse him of the murders of Dionisio Letosa on or about 5 December 1945, and of the murders of three others and the attempted murder of Marcos de Tomas on or about 8 December 1944, they claim he was injured by a gunshot wound, a pistol bullet, in the leg, which incapacitated and hospitalized him for a period of three and one half months; that these three and a half months included December 21, 1944, the approximate date of the killings

charged in Specification 3; February 18, 1945, the approximate date of Specification 4; and December 4 and 8, 1944, the respective approximate dates of Specifications 6 and 7.

The time element in the defense of alibi is diametrically different in importance according to whether the facts of the crime are proven by eyewitnesses or by circumstantial evidence. To illustrate: Specification 3 charges Nanjo with the killings of Faustino and Ricarido Alindog. Their arrest together with that of Leopoldo Agravante was witnessed by the wife of Faustino and the mother of Ricarido -- that is, Romana Ballesteros. Their slaughter that same day was witnessed by Leopoldo Agravante. The perpetrator, Nanjo, was recognized. He was fully identified. The facts of their arrest and killing and the identity of the perpetrator are established because they were seen, not arrived at by some process of deductive reasoning. No presumptions have to be indulged in.

A fact, according to Webster, is "a thing done," the quality of being "actual." Once "the thing done" is established, nothing in the world can "undo" it. It cannot be destroyed as a fact. Therefore, the date or time when the facts became actualities is of no practical importance whatsoever. Every witness as to the facts could have varied concerning the date, but so long as their testimony has not been discredited and is believed, the facts are established actualities and cannot be undone.

It would have been a sad thing for the prosecution in this case had one of the thirteen murdered people been

presented in this court as a live witness to show the fact that he was not murdered, but there has been no such thing. We have the testimony and the evidence of thirteen men who were killed, who were buried. In each case they were seen killed or they were seen buried, and those are facts. We are dealing with eyewitnesses and no questions involving statutes of limitation are involved, dates are less than of secondary importance. They are of relatively minor importance. For instance, what did the respective members of this Commission do on August 25 last? Think for a moment: what do you remember better, dates or events? Does the event, an actuality, become less so because you attribute to it a wrong date? Of course not. It is ridiculous to argue to the contrary.

Where we have the case of a murder to which there has been no eyewitness, the evidentiary facts necessarily are quite different. Identification of the pistol used, finger prints, footprints, a motive perhaps, the day and hour of death become facts of prime importance. And when coupled together and a suspect is accused, evidence that he was in the vicinity on the date and hour becomes of prime importance. If the fact of death occurring at midnight, for instance, becomes the established fact and the accused can establish the fact that he was at a country club dance two hours distant, his alibi becomes perfect. We have no such problems in this case. For every specification we have eyewitnesses, possibly with the exception of Specification 2, insofar as Nanjo personally killing Toriano is concerned, because he

was not charged with having personally killed Toriano. He was charged with having permitted a soldier under his command to do so. However, there is evidence in the record that he personally was there and took part. We have thirteen witnesses, eyewitnesses to the killing or to the incident leading to the killing of thirteen Filipino civilians. Against this we have the accused's denial and an attempted alibi as to each.

Defense counsel banks on the date December 5 as the basis for their alibi to the charges in connection with the bayoneting of Marcos de Tomas and the murders of Felix Amador, Felicito Alba, Pablo Palomo and Dionisio Letosa.

It is claimed that if Nanjo arrived with Takahashi's Unit at Bago he could not have been in Bacolod on the dates December 5 to December 8. The credible evidence is that he not only could have been there between and on those dates, but that he was.

Bago is eighteen kilometers from Bacolod. That is eleven and a quarter miles or twenty-three minutes by a truck travelling at thirty miles per hour. Murcia is about twelve kilometers from Bacolod, or seven and three-quarters miles in an east by south direction, and about fifteen kilometers northeasterly, or nine and three-eighths miles, an easy three-hour hike from Bago. Granada is about nine and three-quarters kilometers or six miles from Bacolod. Lourdes is a couple of kilometers, if that much, from Bacolod.

Takahashi is one of three witnesses relied on to establish his alibi for the Dionisio Letosa and Marcos de Tomas atrocities, respectively, Specifications 6 and 7. He

testifies he was at Victorias from the end of August, 1944 (exact date unknown) to the first part of December. The statement is not accurate and I won't attribute to Takahashi conscious effort to be inaccurate at the time.

But the statement is inaccurate and is wrong. It is untrue as shown by the defense's own witnesses who testified concerning the Leyte concentration all of which and the facts concerning which are in the minds of this Court. Here as before a concentration where they left Victorias. They were in Bacolod around October and November of that same period of time. Takahashi states it was really the 5th of December. He remembers that date because he was bombed on the road. He was bombed twenty or thirty times but can remember October 22nd or October 23rd as the only other date of bombing.

This memory feat so timely and coincidental to Nanjo's injury is either a pure fabrication or a mistake -- it is one or the other. Takahashi, Konda, and Solidad Pastrano couldn't all be right. Their testimony is completely irreconcilable. Solidad Pastrano positively fixes the date of Nanjo's hospitalization as December 8th. That date was coincidental with the birthday of her daughter, so she claimed. At any rate, it is as good a memory fixer as is a bombing which proves to be one of twenty or thirty -- the dates of all of which were neither noted nor remembered. Now, if Nanjo entered the hospital on December 8th, then according to Konda's testimony the unit arrived in Bago on December 2nd, not December 5th as Takahashi testified. Remember, Konda was with him. He arrived at Bago with him. Three days later he went to Bacolod in a truck in about twenty minutes at thirty miles per hour to get medical supplies -- that would be December 5th.

He remained there three or four days, and on the third day Nanjo came in having been injured on that same day -- that would be December 8th.

The testimony of these two defense witnesses utterly destroys and refutes the claim that the unit arrived at Bago on December 5 and the claim that Nanjo received his injury the next day as made by Takahashi, and by Nanjo himself. So, we have Nanjo somewhere around Bacolod or Bago or in that vicinity, his old stamping ground where he had been patrolling for months and months, etc. for some days prior to December 8th, and it was two or three days prior to December 8th when Marcos de Tomas and the Letosa atrocities took place. Any reliance on Takahashi's testimony is further destroyed if that could be possible, by his own memory failures on critical and important events.

The record in the case of the United States versus Takahashi discloses he was found guilty of the 5th specification of the charge therein. Of this the Commission has judicial knowledge. It was for the beheading by him personally of one Leonardo Bebit on March 7th, in the town of Silay. He conducted the raid and he arrested seven. It was a large public execution. His guilt as to that charge contributed to his sentence of death -- yet, when asked at this case whether he conducted a raid in March in the vicinity of hacienda Colasor he was unable to remember whether it was in the early, or middle, or latter part of March. After prompting on cross-examination, I cross-examined, he conceded perhaps

it was the 7th of March. Assuming that he did not behead men personally every day at public execution, that should have been an outstanding date in Takahashi's life. Yet, he had practically no memory of it at all - so what reliance can be placed on his memory as to dates in this particular case? None at all.

Apparently training activities in his unit became active as soon as it arrived at Bago. He distributed one platoon in Granada and two in Murcia. Nanjo operated with his accustomed activity. He was back on his old stamping ground and started patrolling in the vicinity of Granada where he picked up Marcos de Tomas, Dionisio Letosa, and four others.

The conclusion after weighing all this evidence is that Nanjo conducted a raid, or a raiding episode, on or about December 2nd and perpetrated the murders of Letosa and those mentioned in Specification 7, a day or several days before he was wounded, as he claims.

An analyzation of the testimony of these three witnesses, a weeding out of the incredible from the credible, explodes this alibi as thoroughly as an atomic bomb could, and leaves no other hypothesis than guilt.

Then the time element alibi as to Specification No. 4. This charge states that on or about February 18, 1945, Nanjo killed Dionisio Antera and Francisco Villasor near the hacienda Carmen. Nanjo's defense is an alibi. His attorneys claim he was in the hospital on that date -- two months and ten days after having received an alleged

leg wound December 8th. This wound was inflicted by a 25-caliber bullet from a Japanese pistol. It is a matter of common knowledge that the Japanese forces were armed with German -- I was about to say it is a matter of common knowledge the Japanese forces were armed with German lugers, 25-caliber but the evidence in this case is that it was a Japanese pistol of 6.5 milometer caliber, which works out to 25-caliber. The scar at the point of entrance on Nanjo's leg bears this out.

Competent medical testimony says that the wound of the kind described and as shown by the x-rays should not incapacitate a person a week, that he should be on his feet almost immediately. But, allowing for some slowness in the healing process, a man should be ambulatory in a few days and practically fully recovered in a few weeks if no complications slow up the process.

Kanda was the last person who saw Nanjo in the hospital. He says it was about the middle of February -- that could be the 15th or earlier. He did not know whether or not Nanjo was an ambulant patient. He presumed he could walk because he had crutches, but there was no evidence he was required or needed to use the crutches. On the contrary, medical testimony is to the effect that Nanjo should have been walking six weeks before February 15th. I wish to call the attention of the Commission to the effect of the medical testimony with reference to a bullet of that kind and as shown by the x-rays. The leg would correspond to the pedestal of this rostrum here, and a clean hole drilled with

an auger through it would not reduce the bearing weight of that one iota. A cut through, yes, it would. And the evidence in this case was that it was a clean hole right through the bone and the only inconvenience that would be caused to the patient would be soreness of his muscles, particularly if there were any infection in it, and the mere fact that a probe could enter the two inches in the front of the bone means nothing, because until that is entirely healed up in front a probe can be put through the entire bone, and it does not fill up with bone.

Eye witnesses positively declare that Nanjo certainly was walking on February 18th because he visited his old stamping ground, country and people he was familiar with with a patrol which came here from Boroboro or Bacolod and that he performed once more his favorite stunt of slaughtering Filipino civilians. Thus, another alibi is exploded.

How desperate the chief defense felt his case to be in this respect is evidenced -- I will delete the statement I was about to make because I am going to keep all unpleasantness out of this.

Now, the time element as to Specification 5 which charges that on or about the month of April 1945, the defendant Nanjo mistreated and killed Roman Dizon and Benito Mirivelles near Magbuyo. Gil Tanique testified, "I think only that it is about somewhere in the date of April 4, but I am not so sure," page 359, Volume V.

Jonota mentions the date as April 4 in Volume VI, page 385. The unit involved was a large one of over 100 men and it was retreating towards the mountains. Jonota later, on page 447, says, "What I understand is that we were arrested before the date, April 4." Gil Tanique testified that prior to April 4 he saw many groups of Japanese headed for the mountains. He was asked, "Was that the last group of soldiers you saw heading in the direction of the mountains from either Granada, Concepcion, Boroboro?" He answered: "That was the last I know because the Americans were coming and the Japanese soldiers were going into the mountains." And it has been shown throughout this case that various parties of Japanese were leaving from the coast area for the mountains because of the advance of the Americans.

The defense counsel has again made the error of failing to distinguish the time element as related to the case where the corpus delicti and the perpetrator are respectively proven and identified by eye witnesses and where the same elements must be proven by circumstantial evidence. Here we are dealing with eye witnesses -- men who were on the "spot" in every sense of the word. Jonota and Tanique have both disclaimed exact knowledge of the date. The former believed it might be April 4th, the other was under the impression it was prior to April 4th. Their evidence leads to the only possible inference that it was on or about that date and probably just prior to it. Yamanouye's testimony corroborates the claim and the

evidence of the prosecution. He states on the night of April 1 he left Boroboro, which was the area of the Takahashi unit, and that early in the morning of April 4th he reached the Takahashi area and saw Nanjo there. Whether Nanjo got there an hour or a day ahead of Yamanouye was of no importance whatever. Takahashi states that Nanjo arrived in the mountains the end of March or the beginning of April. So much for the matter of the time element.

Unless the alibi is air-tight in the sense that it has so proven time, hours and dates that the defendant could not possibly have been at that place at the time, it is no alibi at all.

Now, there are certain important contradictions of the witnesses that I wish to call to the attention of the Commission, because in evaluating the testimony it should have them in mind. A witness called Chiaki Kanda was called as a witness for the defense. He was a young doctor of extremely small experience. Note the careful way counsel fixed the date of his first hospital visit: "Calling your attention now, to the early part of December 1944, did you have occasion to be in the Bacolod hospital, Occidental Negros?" He didn't ask him what date he had been there. The early part of December could mean, he stated, the 10th.

He stated that he went there a second time in the middle of December. He thought that Nanjo was not able to walk, but there is no certainty to the statement. He believes Nanjo got out about the middle of March, when Nanjo visited him. He thinks Nanjo used a cane. April 10, 1943, appears to be the only date he is certain of. One of those landmark dates -- the date he entered the army. Even then he had to flounder about as to the year. Other important dates such as his disembarkation in Manila, his stay in Formosa, the date he left Manila, the period of his stay at McKinley, the date he reported to the Kono headquarters at Cebu, the date of reporting to Yamaguchi in Negros, are all hazy. He was not assigned to any particular hospital, he says. He testified that the Jap army hospital was called the 13th Army Hospital and Bacolod Sanitarium and that there was a hospital there known as the Provincial Hospital.

The first officer patient that he visited was a platoon leader. He doesn't know his name and believes (but is not sure)

that it was in the latter part of July. He doesn't know whether the Bacolod Sanitarium had any relation to the Provincial Hospital of Bacolod. His visit to Nanjo could have been the 10th of December. He says the unit went to Bago during the early part of December.

Takahashi says positively that the unit arrived in Bago December 5 and that Nanjo entered the hospital December 6. Nanjo says the same.

Kanda says he remained three or four days at Bago, then returned to Bacolod for supplies. I have referred to that testimony.

Assuming that Kanda was truthful, his testimony put Nanjo in the hospital on the 10th day of December. On October 23, he testified that he believed Nanjo had been at Borobore until October 20, 1944. The next day he said "That is incorrect." In October I had no idea where other officers were stationed." The first statement did not suit the defense theory at all. So a night intervening and these prisoners being confined in the same quarters and the witness having had an opportunity to be corrected readily complied. However, his belief in the October 20, 1944 date, was founded on the fact that "It was actually hearsay evidence from Nanjo's own lips, while he was in the hospital in January 1945."

Concerning the unreliability of Takahashi's testimony: He remembers the Bartolome Toriano incident. He confirms the charges that it was about the month of July 1944. He says that he instructed Sergeant Suzuki to capture the suspected guerrilla. However, Elena Beter, a friend of Nanjo's, said Nanjo captured him; that Nanjo told her on June 28, that he was told to arrest him and to bring him

to Bacolod. She testified directly that the soldiers who arrested Toriano were from the garrison of Boroboro and that Nanjo commanded it and them. He says Sergeant Suzuki reported to him by phone that the guerrilla had been shot because he had assaulted a guard with a piece of wood. In view of the fact that Toriano had not been condemned to death, it seems incredible that he, an unarmed man, should assault armed guards.

He cannot remember the date his unit went to Victorias. Takahashi can't. It was from the 25th to the 31st of August. The day not being important to this case, his memory is faulty to the extent of a week. But the day that he left Victorias being important, his memory for dates becomes very sharp. He says December 5 and he remembers it because they were bombed that day. He said that there were twenty or thirty air raids, but that the only dates he can remember are the 22nd and 23rd of October. He doesn't know within a week the day he went to Victorias, but he does remember the day he left, December 5, because there was an air raid that day. He doesn't know whether December 5 was at the beginning or middle of the week. The improbability of his testimony is very patent. Between 5 December 1944 and about 17 February 1945 there were many air raids, but he doesn't remember the date of a single one. He has an intimate recollection of the Toriano raid, but when asked if he was on a raid in March 1944, as stated before, he did not remember very clearly. But he says: "However, I believe there was." But he hasn't the faintest recollection concerning the part of the month -- the beginning or the end. Yet that was important to him, because the records show that he was found guilty of himself beheading a guerrilla suspect

named Leonardo Bebit on March 7, 1944.

He, in a voluntary statement, indicated an early association with Nanjo. He said: "Because of the circumstances and my interest in him, I was always watching over his activities." But he denied that Nanjo was a protege. He says that he heard from Nanjo that he was released from the hospital on March 29, 1945. Kanda testified that Nanjo was released from the hospital about the middle of March and visited him. Takahashi testified that Nanjo had no face scratches, scars on his face or shoulder; he visited Nanjo about December 15 at the hospital and is positive that neither then nor at the time of the alleged accident did Nanjo have any marks on his face. This is in flat contradiction of Doctor Kanda and Solidad Pastrano.

So much for a few of these main contradictions. Now, I come to the summary or summation of the testimony in the case.

Specification 1. About January 1944, near the Sitio of Balogo, Barrio of Boroboro, Nanjo permitted his soldiers to kill Teodoro Vera and mistreat and kill Juan Villas.

Demetria Villas, daughter of Juan Villas, testified on January 16, 1944, at Balogo, her father was apprehended by the Japanese and taken to Boroboro garrison, together with one Doroy. On January 17, so she was informed, he was taken to Concepcion. She was informed by Cesar Lamio that he was killed that day.

Three Japs including Nanjo entered her house. Her father was below the house, was shot at and hit in the finger. She identified Nanjo, saw the finger cut by the shot.

Doroy was apprehended first. She saw him at the railroad station. She saw Nanjo often and identified him. Nanjo had been a visitor of her father's when he patrolled around there. Boroboro is about two kilometers from Granada, about a mile and a quarter, and Balogo is about one kilometer. That her father had nothing to do with guerrillas,

Cesar Lomio corroborates this testimony. He says that Doroy stood for Teodoro Vera, that he was gathering tuba in a coconut tree. He saw a patrol with Nanjo pass, going toward Boroboro. There were eleven Japanese and two civilians. This would indicate that it was not the regular Boroboro garrison. That he descended from the tree, he hid, he heard moans of pain. The patrol stopped about one hour and later he saw the dead bodies of Vera and Villas. Villas had a neck wound -- the witness believes it to be a bayonet wound. Vera was blindfolded -- had a wound in the back of his neck, a bullet wound. He related the facts to Villas' family and returned there the next day, on Friday the 19th of January.

This witness, in his cross-examination is examined, you will find was not shaken in the slightest. He repeats on Friday afternoon, the 19th of January 1944 -- in fact, the 19th is a Wednesday -- "I saw the bodies on Wednesday and they were buried on Friday." Villas was a civilian, about fifty-five years of age.

Nanjo's garrison was at Boroboro then. The witness identified Nanjo while down in Boroboro, about four kilometers from Concepcion, to a grove less than one kilometer, and to the grove where one of these parties was murdered was less

than one kilometer. His reason for identifying Nanjo, he says: "Because when you have seen the person whom you have met before you can recall if you see his face again." And that will explain a great deal of the identification of these witnesses that occurred in the courtroom at this time. These witnesses had seen Nanjo many times. But quite a long time had passed and his face had faded from the memories of both. But it is the most natural thing in the world as you sit in a courtroom close by for a day or two days to the person you have seen a year or two before, the features come back and identification becomes much easier than had the witness been taken immediately a year or two after the occurrence and confronted with two or three Japanese and asked to pick out Nanjo. In this case in not one single instance has one of the witnesses failed to recognize Nanjo.

And even in the case of the old woman, Romana Ballesteros, who had stated that her eyes were not good and she did not think she could remember him, yet she went and pointed him out immediately and then exclaimed, "But when I saw him before, he wore glasses!" He hasn't worn glasses during this trial at any time, but she remembered that fact and mentioned it at the time and pointed him out without any hesitation.

A defense witness, Solidad Pastrano, testified that Nanjo was at Boroboro in January 1944 -- page 877.

As to Specification 2, the killing of Bartolome Toriano, I will pass that over for the time being for the saving of time, because that is one of the specifications that we did not claim Nanjo personally committed the murder. But that he permitted one of his soldiers to do it.

Specification 3 -- the mistreatment and torture by Nanjo about December 21, 1944, near Balogo, Bacolod City, of Faustino Alindog, and Ricarido Alindog, and their killing near Matab-ang. That was witnessed by Romané Ballesteros, an old woman sixty-five years of age with one foot practically in the grave and who it would be a pity to accuse of at the present time, a desire to put anybody else in the grave unjustly. But that old woman can't forget the fact that her husband and her son were both mistreated and killed before her. She can't forget the fact that she pleaded for their lives and in pleading for their lives, was struck in the chest and knocked down herself.

She says on or about December 21st, 1944, Faustino Alindog, her husband, Ricarido Alindog, her son, were arrested by Nanjo and soldiers from the Boroboro garrison who arrived there about 5 P.M., and their hands were tied. Nanjo was giving orders. Leopoldo Agravante was also arrested. He was later released.

Now, you will find some discrepancy in the testimony between Agravante and her, but that is bound to occur and especially after the lapse of time, and as it happened this was very early in the morning. A part of these proceedings were taking place when it was practically dark and a part when dawn had arrived and due to the excitement of the period an instance which one person would see and which would be missed by another.

It is well known that if a half a dozen people see the same automobile accident and then they are asked to relate the incident of that, you get a half a dozen stories of it, although the main facts are told consistently. Agravante was later released. He informed her of the Matabang River where she went four days later and found the bodies of her husband and son. And here is something to remember, as fixing the date, that old woman said that she went there on a Sunday which was four days later, to look for the bodies. And that the next day was Christmas on Monday. If you will examine your calendar you will find exactly that is what happened and those are the dates. Those dates are burned

in her mind and she knew them. She had seen Nanjo twice before, it was dark that morning at first and then became light and that would account for some discrepancy between her testimony and Agravante's. Her son was beaten by the soldiers, but Nanjo. She identifies him but says that at the time of the incident he was wearing glasses. Nanjo, according to Agravante, Nanjo was there and he describes that mistreatment of the Alindogs. He saw Nanjo hacking with his saber, he identifies Nanjo. He says he saw him almost three times a week, that they were proceeding along this road at the time he heard the shot and was compelled to lie down, and in that excitement he made his escape.

Now, against this the only evidence is an attempted alibi and they tell you that Nanjo got himself shot during the first week in December and he was in the hospital at that time. Here we have the testimony of eye witnesses again.

Passing on to Specification 4, which is the killing by Nanjo of Dioniso Antera and Francisco Villasor. Primitiva Casabuena was the chief witness in that case and she states she was walking from the hacienda Presentacion with her son and Antera, and when near the railroad track, a Japanese patrol jumped them. She could not tell whether it came from Boroboro or Bocolod, and here I wish to emphasize that we are not trying Nanjo in this case in all these specifications, as the commander of the Boroboro water shed, but as an officer of the army of Japan leading patrols out from different

directions, and that his headquarters or where he started his patrol from may have been Bacoled, may have been Boroboro, may have been Granada. These distances are all within an hour or so walk of each other. A patrol, and if he took a patrol out -- and he was then in the course of instructing soldiers the art of warfare, etc., -- it would be the natural thing to take them out not only on conditioning hikes, but on hikes which taught them the terrain, taught them exactly what was being done there in connection with handling guerrilla warfare, and that is apparently from the evidence what Nanjo was engaged in doing.

We are not accusing him in all cases of being at the time the commander at Boroboro, but merely the commander of a patrol. Whether it came from Boroboro or Bacoled is unimportant, if he commanded the patrol or committed the atrocities. She said Nanjo commanded the patrol, her son was beaten by a soldier and pierced with a sword. At 6 P.M. she returned with Gil Tanique and found both bodies. Only Nanjo carried a sword. He struck her son with a saber, he gave the command, "Okay Patay," when she pleaded with him. She testified at the time Nanjo arrested her son she did not know whether the patrol came from Boroboro or from the Bacoled garrison but she identified Nanjo. She testified that Nanjo wore glasses when she saw him, the same as Ballesteros did. She said she knew he was "Captain Nanjo" because the soldiers called him that, and this testimony is strongly corroborated

by the defense witness, Solidad Pastrano, who was strongly cross-examined as to how the soldiers addressed these commanders, these lieutenant commanders, and who testified they called them "Captain" -- did not call them "Capitan" but called them "Captain" and they would call a sergeant "Captain" if he was in command of a unit or garrison. And under examination by the Commission this witness was asked, "When they used to come to your restaurant and bar together, what did the soldiers used to call the accused?" She answered, "He was called by the soldiers 'Captain'."

After much effort on the part of defense counsel that Nanjo's men called him "Suy" or "Capitan" in Japanese, she was interrogated and answered as follows: "Did you ever hear them call him 'Suy'?" Answer: "No, I heard his soldiers call him 'Captain'." Question: "And you never heard his soldiers call him 'Suy'?" Answer: "No, I did not hear." Question: "Did you ever hear the soldiers use the word 'Suy'?" Answer: "I did not hear them say." Again, question: "Was the word they used 'Captain' or 'Capitan'?" Answer: "They used the word 'Captain'."

Now, Gil Tanique corroborated Primitiva Casabuena in every particular for what took place after the killing. He met her on the road. This was only a short distance from the town of Granada that he had left when he met her, and she told him that her husband and son had been killed, but the killing had just taken place or was just taking

place, because he says he actually did see Nanjo and he actually did see him with the sword raised, but he did not testify at any time that he saw any blow being delivered. Upon examination of the bodies later there were no hacks discovered on the bodies, but if you will remember there was a great deal of evidence as to the size of the wounds on those bodies and they ran from one and one-half inches to two and one-half inches. Now, if you will remember the bayonet wounds we saw on the body of Marcos de Tomas, they were small wounds, a half, three-quarters of an inch in length, not two and one-half inches, and I believe Tanique was right when he said that Nanjo used his saber but the blow was not a hacking blow but a thrust, four thrusts. He said, "She told him her son was captured by the Japanese, and further told me I must hide myself because they were very near," and he was very near, he was within fifteen yards of them, which was too near for his own comfort. He said he actually saw Captain Nanjo holding his sword in this position. He was then about 140 yards from the Japanese. They thereupon kept out of sight and went back to Granada. They returned at 6 P.M., found the bodies and buried them. "I was not able to know how many Japanese there were," he says, "because immediately after I had seen them I hid." "There were over ten," he said. Now, this would indicate that the patrol came from Bacolod, not from Boroboro, because the Boroboro garrison did not have as many as ten men there. It would be unreasonable to suppose that the entire

garrison of Boroboro was out on a patrol of that kind.

Specification 5 is the torture, mistreatment, and subsequent killing of Roman Dizon and Benito Mirivelles, near Magbuyo. I thought when I listened to counsel's argument with reference to that, that the alibi was abandoned as to that specification, but it seems that he dug it up again. Further on in his argument, he admits, he says, these two men were killed -- he admits they were killed and by trying to show as a defense that because there was some discrepancy in the testimony between Til Tanique and that of Jonota, I don't know,

I don't know whether he means they were not killed because there was that discrepancy or because of that discrepancy. It was not Nanjo that killed them. But, he admits they were killed and that they were killed. He says, however, they could not see Nanjo do this because they were 280 yards or thereabouts away. Well, it isn't a fact they were 280 yards away. They threw their bundles down when they were about sixty yards behind them and they ran at right angles, they were not running in the opposite direction all the time, and they had testified that they saw Nanjo with his sword.

Now, there has been no direct evidence of any kind that Nanjo was not with that party. There is an admission on the part of the defense that there was this patrol of some sort, that it had gotten to this point and that these men were killed there, but they simply say it was not the defendant that did it. However, Gil Tanique and Jonota knew Nanjo and they were arrested

by Nanjo along with Dixon and Mirivelles, so there is no discrepancy in the testimony up to that point, and the only thing now for this Commission to decide is whether they actually saw Nanjo killing the two men, as is claimed. That specification I will leave with the Commission because it is thoroughly familiar with all the details of that and I don't think there is a thing I can say now that will elucidate any more the fact of that. It is just 3 o'clock and I will take about three minutes more to finish and go on to Specification 6, the killing of Letosa.

We have had the testimony of Marcos de Tomas, the boy who came here and exhibited his body which had been made to look like a sieve. A boy who had a most marvelous escape. And in this connection, I want to recall to the Commission what I would have if I had more time. I would have gone into a great deal that had been said by the defense counsel, but as time is limited I must go on. Nanjo himself testified that he had no enemies up there, that he liked those people and that they were his friends and that he left no enemies. If that is the case, think of it, why would thirteen people from the vicinity of Boroboro and Granada come here in this court and testify they saw him kill thirteen people, Filipinos, unless they thought they were telling the exact truth. They were not appearing against him as enemies, because he said he left no enemies there, and one of them, Elena Beter said she was his friend. That is a consideration that the

Commission could give plenty of thought to, because the defendant himself admits that these people are not appearing here as his enemies "out to get him," but they have come here and unequivocally identified him and said, "Yes, he is the man, he is the man," who in these individual cases has killed thirteen of our fathers, our brothers, our sons. And, Marcos de Tomas who stood there in front of this hole, the fifth in the line, identified him thoroughly. As they admit themselves, Marcos de Tomas was no enemy of his -- he had nothing against him. Yet, he says Nanjo arrested him and three days later Nanjo took him out and executed him. And, in this connection, because it has been made a point of by the prosecution, I wish to call the Commission's notice to the record in the case of the United States against Tozuka and the testimony given in that case by Takeshi Kono, who testified that the Japanese had no means or no authority of any kind to hold hearings, have trials --

MR. WARD: We have to object at this time. This is the second time the counsel has brought something in.--

COLONEL STICKNEY: I do not wish any interruptions and I will state again, as I stated before -- will you please sit down -- that this is an address by a lawyer and we are not receiving evidence.

MR. ALLEN: I wish to make this statement, however, as a legal proposition, that whatever a judge or a Commission can take judicial knowledge of be it read

out of an arithmetic book or a history book. It can be made use of in an argument, because, it is not in the record. It is in the record of your minds, that is where the judicial knowledge is. It is what you know, and I don't have to have it in evidence in a case because it is in evidence by law.

COLONEL STICKNEY: We will listen to the address by each side, but it is the understanding that the evidence closed when the defense rested and when the prosecution rested.

MR. AITKEN: That is right, but as I say, this is not evidence, this is just judicial knowledge and so I call the Court's attention to that matter of which they must know. It is a matter of law and common knowledge, and judicial knowledge is taken that the Japanese cannot and could not hold trials of guerrillas in this vicinity here.

There isn't any evidence there was any trial in that case -- there is some speculation that there was. But, whether there was or there was not as far as the prosecution is concerned in this case, it makes not the slightest difference. Those men were taken out and Marcos de Tomas testified and we are going to assume right now, because the defense has stated it so, that he is not an enemy of the defendant -- he is not "out to get him" because of some inimical feeling or anything of that kind. But, he identifies as the man who arrested him and the man who executed him and, when I say executed him, I mean in the sense that the four or five who were tied to him and to his right, at the word "Kura" were bayoneted to death

by the Japanese soldiers until his turn came, and he was bayoneted, and at the second bayonet wound, fell into this ditch and fortunately no vital part was injured, and he regained consciousness in the dark at the time. He had already been buried, but not too completely buried, for which he can thank his God. He got out and escaped and lived to tell the tale. And there is no question whatever that that happened some time between the 2nd and the 8th of December because the testimony shows it to be such, and if Kanda's testimony is worth anything at all, this man and the Takahashi unit couldn't have been in that area on the 5th of December but had to be there several days earlier.

I leave this with the Commission with the recommendation that the prisoner be found guilty on all charges.

COLONEL STICKNEY: The Commission will go into closed session and will reconvene in open court at 1300 hours on the 14th of November.

(The Commission adjourned at 1515 hours, to reconvene at 1300 hours, 14 November 1946.)

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(The Commission adjourned at 1515 hours, to reconvene at 1300 hours, 14 November 1946.)

C E R T I F I C A T E

Before the
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs.)

Masao Nanjo)

PUBLIC TRIAL

High Commissioner's Residence
Manila, P.I.

1. Lines 20 and 21, inclusive, page 1395, Volume XXIII,
case of United States of America vs. Masao Nanjo, which read:

"(The Commission adjourned at 1515 hours, to reconvene
at 1300 hours, 14 November 1946.)"

is hereby amended to read:

"(Commission then met in closed session at 1515 hours,
13 November 1946, to consider the case and arrive at Findings
and Sentences, if any. The Commission adjourned at 1130 hours,
14 November 1946, for the announcement of findings and sentences
if any.)".

2. Lines 1 to 3, inclusive, page 1396, Volume XXIV,
case of United States of America vs. Masao Nanjo, which read:

"The Commission reconvened, pursuant to adjournment, at
1300 hours, 14 November 1946, in Court No. 2, High Commissioner's
Residence, Manila, P.I."

is hereby amended to read:

"(The Commission then met in open session at 1300 hours,
14 November 1946, Courtroom No. 2, Former High Commissioner's
Residence, Dewey Boulevard, Manila, P.I.)".

3. The findings and sentence were arrived at in closed
session as prescribed by paragraph 5c(9), Letter of 5 December
1945, file AG 000.5 LS, General Headquarters, Supreme Commander
for the Allied Powers, subj: "Regulations Governing the Trial of
Accused War Criminals."

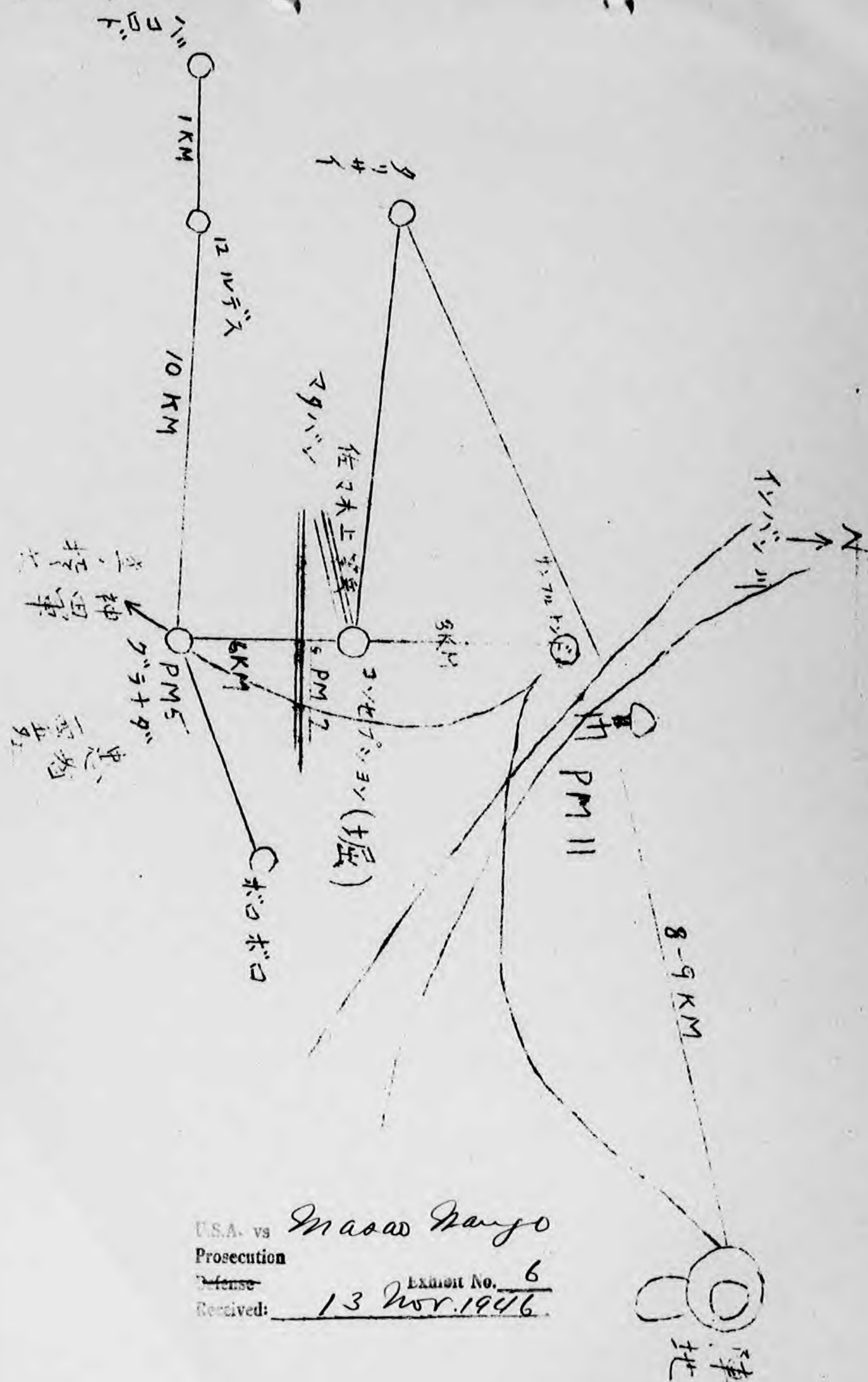
Dated: 28 February 1947.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel INF
President of Commission

THIS ACKNOWLEDGES that the above-described certificate
was submitted to the Defense Counsel prior to being certified
by the President of the Commission.

John J. Schauer

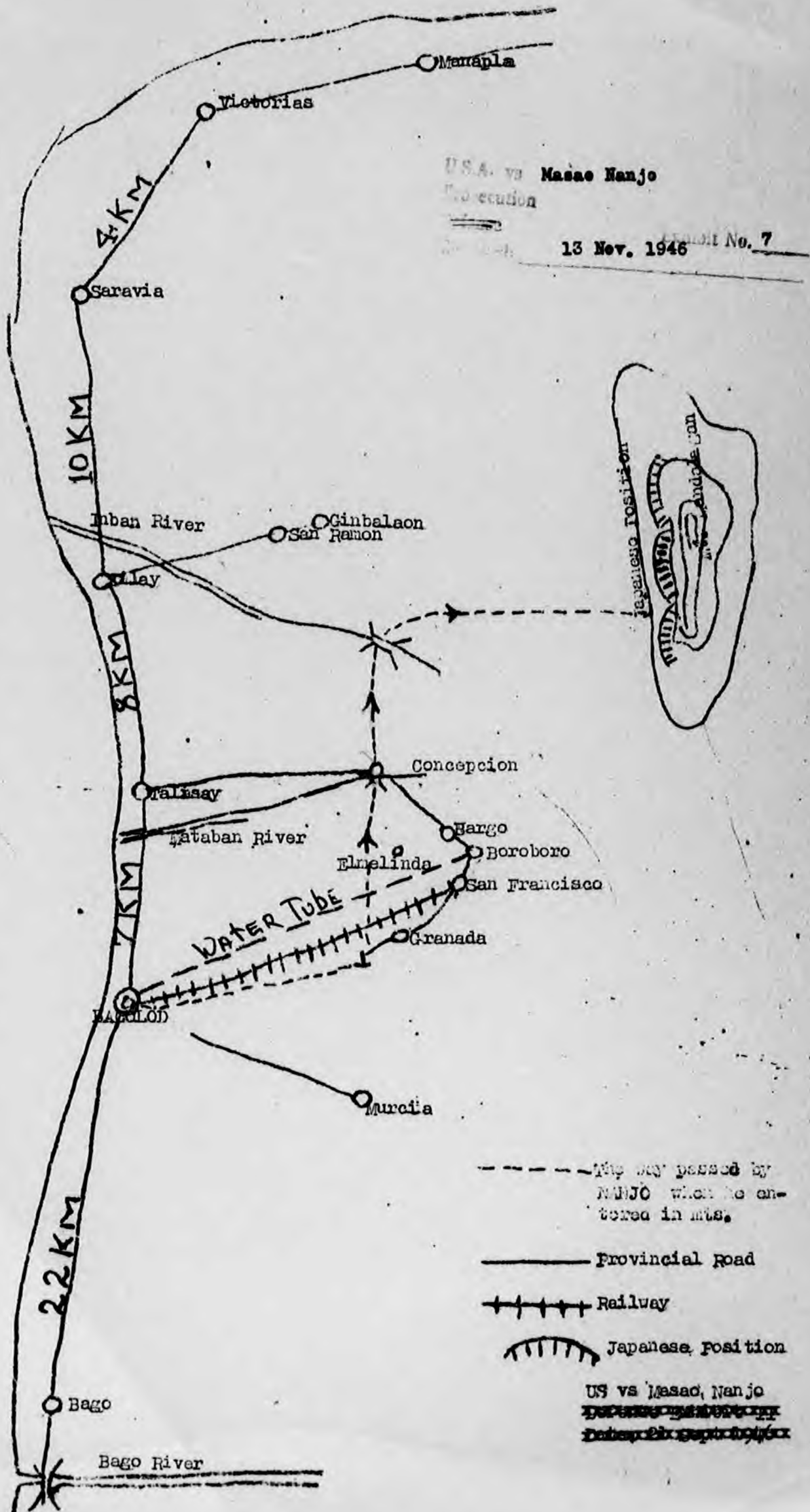
JOHN J. SCHAUER, CS
Co-Defense Counsel



U.S.A. vs Masao Muro
 Prosecution
 Defense
 Received: 13 Nov. 1946
 Exhibit No. 6

三月二十日

THE MAP OF OCC. NEGROS



BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

VOLUME XXIV

PAGES 1396, TO 1398, INCL.

MANILA, P.I.

DATE: 14 November 1946

COPY NO: 1

dsh

CERTIFICATION

THIS CERTIFIES that this volume is a part of the
proceedings of the Military Commission appointed by

Paragraph 14, Special Orders 218, Headquarters,
United States Army Forces, Western Pacific,
dated 23 September 1946;

Paragraph 25, Special Orders 224, Headquarters,
United States Army Forces, Western Pacific,
dated 30 September 1946;

Paragraph 2, Special Orders 227, Headquarters,
United States Army Forces, Western Pacific,
dated 3 October 1946; and

Paragraph 23, Special Orders 228, Headquarters,
United States Army Forces, Western Pacific,
dated 4 October 1946,

in the trial of the case of the United States of America
against Masao NANJO.

Dated 30 November 1946.

Richard C. Stickney
RICHARD C. STICKNEY
Colonel, INF
President of Commission

BEFORE A
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA)

vs)

MASAO NANJO)

PUBLIC TRIAL

Court No. 2
High Commissioner's Residence
Manila, P.I.
14 November 1946

Met, pursuant to adjournment, at 1300 hours.

MEMBERS OF MILITARY COMMISSION:

COLONEL RICHARD C. STICKNEY, INF, President and
Law Member

LIEUTENANT COLONEL WILLIAM MacKINTOSH, ORD

MAJOR ROBERT W. FRITZ, CE

MAJOR MILTON B. HERR, SigC

APPEARANCES:

FOR THE PROSECUTION:

MR. THOMAS D. AITKEN, CS

FOR THE DEFENSE:

MR. ROBERT L. WARD, CS, Defense Counsel

MR. JOHN J. SCHAUER, CS, Co-Defense Counsel

OFFICIAL INTERPRETERS FOR THE COMMISSION:

2d LT. HAKUZO NITTA)

T/3 TAKEO SAITO)

2d LT. TAICHI NISHIHARA)

2d LT. JAMES NAKAMURA)

Japanese

FILOMENA ZOSA)

PEDRO GENOVES)

MACARIO E. BELAONG)

Ilongo (Visayan)

OFFICIAL REPORTERS FOR THE COMMISSION:

HELEN R. SOLOMON

GENEVIEVE A. ROBERTS

dsh

P R O C E E D I N G S

The Commission reconvened, pursuant to adjournment, at 1300 hours, 14 November 1946, in Court No. 2, High Commissioner's Residence, Manila, P.I.

COLONEL STICKNEY: The Commission is in open session.

MR. AITKEN: Let the record show that all the members of the Commission, the prosecution, the assigned defense counsel, the defendant and his personal interpreter, the assigned interpreters in Japanese, and the reporter are all present in court.

COLONEL STICKNEY: The Commission has heard, carefully analyzed and evaluated all the evidence in the case. As the result, the Commission has arrived at a judgment and sentence in the case of the defendant and will now announce them.

The accused, Masao Nanjo, his defense counsel and the Commission interpreter will take their positions in front of the Commission.

(The accused, Masao Nanjo, his defense counsel, Mr. Ward and Mr. Schauer, and the Commission Interpreter Nitta, stood before the Commission as directed.)

COLONEL STICKNEY: Findings and sentence:

Masao Nanjo, the Commission in closed session and upon secret written ballot, at least two-thirds of the members present at the time the vote was taken concurring in each finding of guilty, finds you:

Of Specification 1, GUILTY, except the word "hacienda," substituting the word "barrio," and except the words "mistreat, torture and"; without substitution of the excepted words, NOT GUILTY, of the substituted words, GUILTY;

Of Specification 2, GUILTY, except the words "mistreat, torture and"; without substitution of the excepted words, NOT GUILTY;

Of Specification 3, NOT GUILTY;

Of Specification 4, NOT GUILTY;

Of Specification 5, as amended, NOT GUILTY;

Of Specification 6, GUILTY;

Of Specification 7, GUILTY, except the words "an undetermined number of," substituting the word "four"; of the excepted words, NOT GUILTY, of the substituted word, GUILTY;

Of the Charge, GUILTY.

(Interpreter Nitta translated to the accused.)

COLONEL STICKNEY: Further, this Commission in closed session and by secret written ballot, at least two-thirds of the members present at the time the vote was taken concurring, sentences you to DEATH BY HANGING.

(Sentence was then translated to the accused by Interpreter Nitta.)

COLONEL STICKNEY: The Military Police will escort the accused from the courtroom.

(The accused was escorted from the courtroom by the Military Police.)

COLONEL STICKNEY: I would like to ask both the prosecution and the defense to watch for the records, including today's volume, and to get them to me in twenty-four hours.

The Commission adjourns sine die.

(The Commission adjourned sine die at 1320 hours, 14 November 1946.)

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CERTIFICATION

I certify that the micrographs appearing in this reel of film are true copies of the original records described above.

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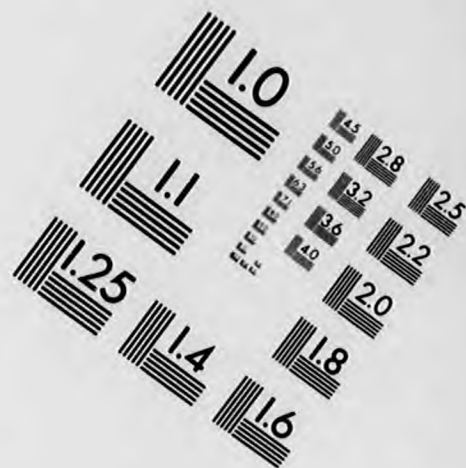
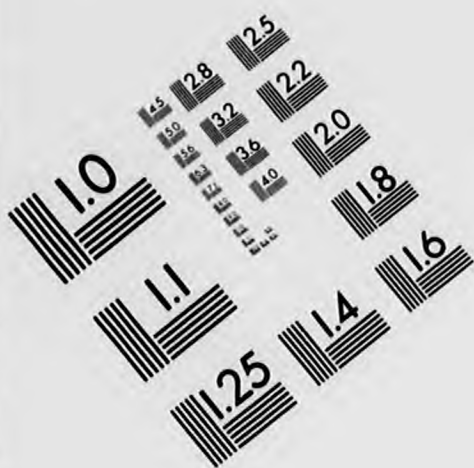
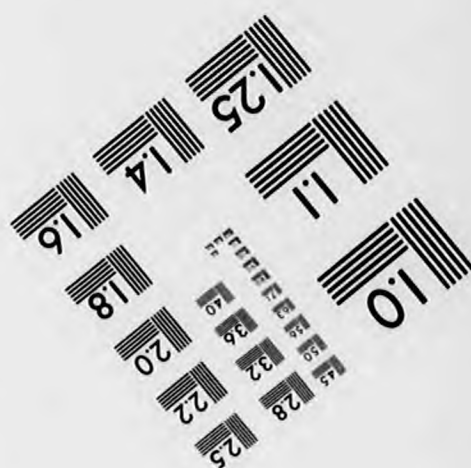
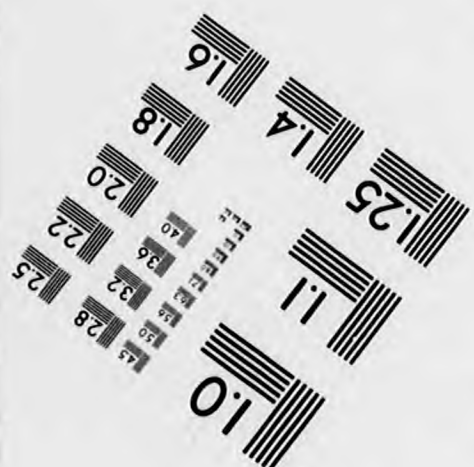
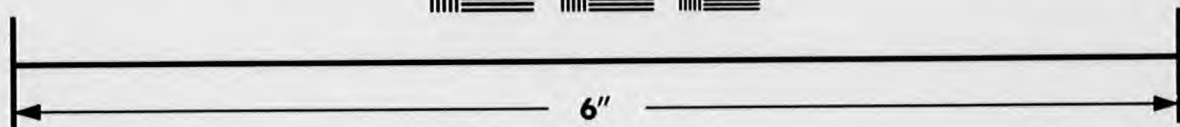
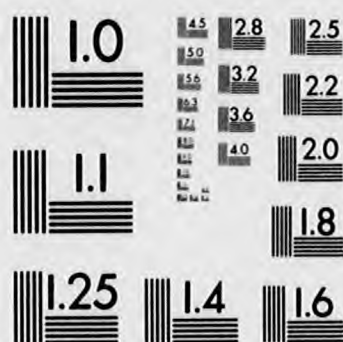
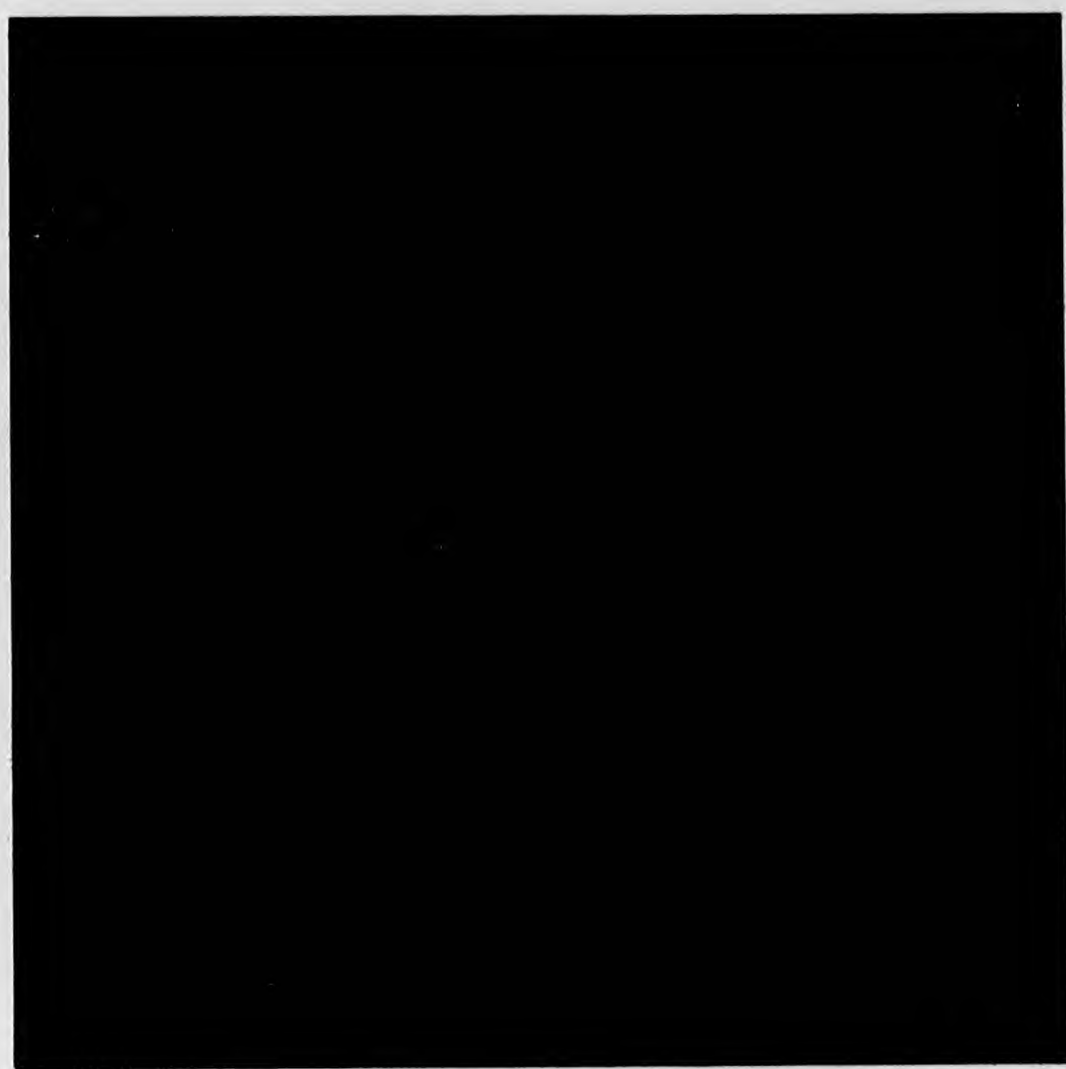


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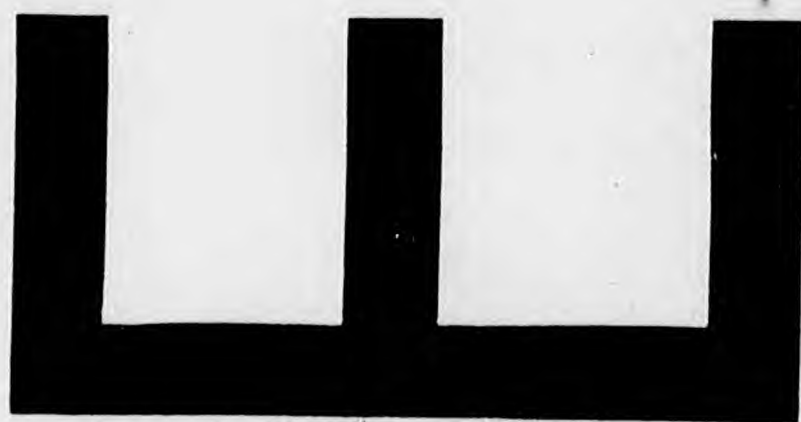
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